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NUCLEAR REGULATORY COMMISSION

10 CFR Parts 9, 170, and 171

[NRC–2015–0223]

RIN 3150–AJ66

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2016

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending the licensing, inspection, special project, and annual fees charged to its applicants and licensees and, for the first time, the NRC is recovering its costs when it responds to third-party demands for information in litigation where the United States is not a party ("Touhy requests"). These amendments are necessary to implement the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90), which requires the NRC to recover approximately 90 percent of its annual budget through fees.

DATES: This final rule is effective on August 23, 2016.

ADDRESSES: Please refer to Docket ID NRC–2015–0223 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0223. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
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- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Michele Kaplan, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–5256, email: *Michele.Kaplan@nrc.gov.*

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I. Background; Statutory Authority

The NRC's fee regulations are primarily governed by two laws: (1) The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 9701), and (2) OBRA–90. The OBRA–90 statute requires the NRC to recover approximately 90 percent of its budget authority through fees; this fee-recovery requirement excludes amounts appropriated for Waste Incidental to Reprocessing, generic homeland security activities, and Inspector General (IG) services for the Defense Nuclear Facilities Safety Board, as well as any amounts appropriated from the Nuclear Waste Fund. The OBRA–90 statute first requires the NRC to use its IOAA authority to collect user fees for NRC work that provides specific benefits to identifiable applicants and licensees (such as licensing work, inspections, special projects). The regulations at part 170 of title 10 of the *Code of Federal Regulations* (10 CFR) authorize these fees. But, because the NRC's fee recovery under the IOAA (10 CFR part 170) does not equal 90 percent of the NRC's budget authority, the NRC also assesses generic "annual fees" under 10 CFR part 171 to recover the remaining fees necessary to achieve OBRA–90's 90-percent fee recovery. These annual fees recover regulatory costs that are not otherwise collected through 10 CFR part 170.

II. Discussion

FY 2016 Fee Collection—Overview

The NRC is issuing the FY 2016 final fee rule based on the Consolidated Appropriations Act, 2016 (Pub. L. 114–113), amount of $1,002.1 million, which is a decrease of $13.2 million from FY 2015. As explained previously, certain portions of the NRC's total budget are excluded from the NRC's fee-recovery amount—specifically, these exclusions include: $1.3 million for waste-incidental-to-reprocessing activities, $1.0 million for IG services for the Defense Nuclear Facilities Safety Board, and $18.8 million for generic homeland security activities. Additionally, 10 percent of the NRC's budget is recovered through a congressional appropriation. After accounting for the OBRA–90 exclusions, this 10-percent appropriation, and net billing adjustments—*i.e.,* the sum of unpaid current year invoices (estimated) minus payments for prior year invoices and the prior year billing credit issued to the U.S. Department of Energy (DOE) for the transportation fee class—the NRC must collect $883.4 million in FY 2016 from its licensees. Of this amount, the NRC will recover $332.7 million through 10 CFR part 170 user fees, and the remaining $550.7 million through 10 CFR part 171 annual fees. Table I summarizes the fee-recovery amounts for the FY 2016 final fee rule using the enacted budget, and taking into account excluded activities, the 10-percent appropriation, and net billing adjustments (individual values may not sum to totals due to rounding).

TABLE I—BUDGET AND FEE RECOVERY AMOUNTS

[Dollars in millions]

	FY 2015 final rule	FY 2016 final rule	Percentage change
Total Budget Authority	$1,015.3	$1,002.1	−1.3
Less Excluded Fee Items	−20.3	−21.1	3.8
Balance	$995.0	$981.0	−1.4
Fee Recovery Percent	90	90	0.0
Total Amount to be Recovered:	$895.5	$882.9	−1.4
10 CFR Part 171 Billing Adjustments:	0.0	0.0	0.0
Unpaid Current Year Invoices (estimated)	2.8	6.3	125.0
Less Prior Year Billing Credit for Transportation Fee Class	0.0	−0.2	100
Less Payments Received in Current Year for Previous Year Invoices (estimated)	−9.6	−5.6	−41.7
Subtotal	−6.8	0.5	−107.4
Amount to be Recovered through 10 CFR Parts 170 and 171 Fees	$888.7	$883.4	−0.6
Less Estimated 10 CFR Part 170 Fees	−321.7	−332.7	3.4
Less Prior Year Unbilled 10 CFR Part 170 Fees	−0.0	−0.0	0.0
10 CFR Part 171 Fee Collections Required	$567.0	$550.7	−2.9

FY 2016 Fee Collection—Hourly Rate

The NRC uses an hourly rate to assess fees for specific services provided by the NRC under 10 CFR part 170. The hourly rate also helps determine flat fees (which are used for the review of certain types of license applications). For FY 2016, the NRC's hourly rate is $265, a decrease of $3 from the hourly rate in the FY 2015 final rule. This rate is applicable to all activities for which fees are assessed under §§ 170.21 and 170.31.

The NRC derives its hourly rate by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and 3) agency support—which includes corporate support, office support (FY 2015 only), and the IG. In FY 2016, the agency eliminated the office support category for budgetary resources. Created in FY 2011, office support included indirect resources that sustained an individual office—such as supervisory, administrative assistant, and other support staff FTE hours. In FY 2015, the agency contracted with E&Y (formerly Ernst and Young) to study the NRC's budget structure in comparison with peer agencies. Based on E&Y's recommendations (and starting in FY 2016), the NRC reclassified resources formerly budgeted in office support into either mission-indirect program support or corporate support, depending upon whether the resources were budgeted in support of a program office or a corporate support office.

The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the estimated annual hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities. Billable contract activities are included as a separate line item on the 10 CFR part 170 invoice.

The hourly rate decrease is the result of an increase in estimated direct hours worked per mission-direct full-time equivalent (FTE) during the year and reduced budget. The FY 2016 estimated annual direct hours per staff is 1,440 hours, which is up from 1,420 hours in FY 2015. Assuming a constant budget, as the FTE hours per staff increases, the hourly rate decreases. Table II shows the hourly rate calculation methodology. The FY 2015 amounts are provided for comparison purposes.

TABLE II—HOURLY RATE CALCULATION

[Dollars in millions]

	FY 2015 final rule	FY 2016 final rule	Percentage change
Mission-Direct Program Salaries & Benefits	$365.6	$369.6	1.1
Mission-Indirect Program Support	$67.7	$140.6	107.6
Agency Support (Corporate Support, Office Support* and the IG)	$422.7	$314.0	−25.7
Subtotal	$856.0	$824.2	−3.7
Less Offsetting Receipts	−$0.0	−$0.1	41.5
Total Budget Included in Hourly Rate	$856.0	$824.1	−3.7
Mission-Direct FTE (Whole numbers)	2,250	2,157	−4.1
Mission-Direct FTE hours	1,420	1,440	1.4
FTE Converted to Hours (Mission-Direct FTE multiplied by Mission-Direct FTE hours worked annually) (In Millions)	3.2	3.1	−2.8

TABLE II—HOURLY RATE CALCULATION—Continued

[Dollars in millions]

	FY 2015 final rule	FY 2016 final rule	Percentage change
Professional Hourly Rate (Total Budget Included in Hourly Rate Divided by FTE Converted to Hours) (Whole Numbers)	$268	$265	−1.0

* FY 2015 only.

FY 2016 Fee Collection—Flat Application Fee Changes

The NRC amends the flat application fees that it charges to applicants for import and export licenses, applicants for materials licenses and other regulatory services, and holders of materials, import, and export licenses in its schedule of fees in §§ 170.21 and 170.31 to reflect the revised hourly rate of $265. The NRC calculates these flat fees by multiplying the average professional staff hours needed to process the licensing actions by the professional hourly rate for FY 2016. The NRC analyzes the actual hours spent performing licensing actions and then estimates the average professional staff hours that are needed to process licensing actions as part of its biennial review of fees, which is required by Section 902 of the Chief Financial Officers Act of 1990 (31 U.S.C. 902(8)). The NRC performed this review in FY 2015 and will perform this review again in FY 2017. The lower hourly rate of $265 is the primary reason for the decrease in application fees.

The NRC rounds these flat fees in such a way that ensures both convenience for its stakeholders and that any rounding effects are minimal. Accordingly, fees under $1,000 are rounded to the nearest $10, fees between $1,000 and $100,000 are rounded to the nearest $100, and fees greater than $100,000 are rounded to the nearest $1,000.

The licensing flat fees are applicable for import and export licensing actions (see fee categories K.1. through K.5. of § 170.21), as well as certain materials licensing actions (see fee categories 1.C. through 1.D., 2.B. through 2.F., 3.A. through 3.S., 4.B. through 5.A., 6.A. through 9.D., 10.B., 15.A. through 15.L., 15.R., and 16 of § 170.31). Applications filed on or after the effective date of the FY 2016 final fee rule will be subject to the revised fees in the final rule.

FY 2016 Fee Collection—Fee-Relief and Low-Level Waste (LLW) Surcharge

As previously noted, Congress provides 10 percent of the NRC's recoverable budget authority through an appropriation. The NRC applies this 10-percent congressional appropriation to offset certain budgeted activities—see Table III for a full listing. These activities are referred to as "fee-relief" activities. Any difference between the 10-percent appropriation and the budgeted amount of these fee-relief activities results in a fee adjustment (either an increase or decrease) to all licensees' annual fees, based on their percentage share of the NRC's budget.

In FY 2016, the NRC's budgeted fee-relief activities fall below the 10-percent appropriation threshold—therefore, the NRC assessed a fee-relief credit to decrease all licensees' annual fees based on their percentage share of the budget. Table III summarizes the fee-relief activities for FY 2016. The FY 2015 amounts are provided for comparison purposes.

TABLE III—FEE-RELIEF ACTIVITIES

[Dollars in millions]

Fee-relief activities	FY 2015 budgeted costs	FY 2016 budgeted costs	Percentage change
1. Activities not attributable to an existing NRC licensee or class of licensee:			
a. International Assistance activities	$9.3	$12.6	35.5
b. Agreement State oversight	12.0	12.6	5.0
c. Scholarships and Fellowships	18.9	18.2	−3.7
d. Medical Isotope Production Infrastructure	4.9	1.0	−79.6
2. Activities not assessed under 10 CFR part 170 licensing and inspection fees or 10 CFR part 171 annual fees based on existing law or Commission policy:			
a. Fee exemption for nonprofit educational institutions	10.3	10.1	−2.5
b. Costs not recovered from small entities under 10 CFR 71.16(c)	8.8	8.5	−3.7
c. Regulatory support to Agreement States	18.5	16.5	−10.8
d. Generic decommissioning/reclamation (not related to the power reactor and spent fuel storage fee classes)	16.4	15.2	−7.1
e. *In Situ* leach rulemaking and unregistered general licensees	1.4	1.6	21.4
f. Potential Department of Defense remediation program MOU activities	0.0	1.7	100
Total fee-relief activities	100.5	98.0	−2.4
Less 10 percent of the NRC's total FY budget (less non-fee items)	−99.5	−98.1	−1.4
Fee-Relief Adjustment to be Allocated to All Licensees' Annual Fees	1.0	−0.1	−107.0

Table IV shows how the NRC allocates the −$0.1 million fee-relief adjustment (credit) to each license fee class.

In addition to the fee-relief adjustment, the NRC also assessed a generic LLW surcharge of $3.3 million.

Disposal of LLW occurs at commercially operated LLW disposal facilities that are licensed by either the NRC or an Agreement State. There are three existing low-level waste disposal facilities in the United States that accept various types of low-level waste. All are in Agreement States. The NRC allocates this surcharge to its licensees based on data available in DOE's Manifest Information Management System. This database contains information on total LLW volumes and NRC usage information from four generator classes: Academic, industry, medical, and utility. The ratio of utility waste volumes to total LLW volumes over a period of time is used to estimate the portion of this surcharge that should be allocated to the power reactors, fuel facilities, and materials fee classes. The materials portion is adjusted to account for the fact that a large percentage of materials licensees are licensed by the Agreement States rather than the NRC.

Table IV shows the surcharge, and its allocation across the various fee classes.

TABLE IV—ALLOCATION OF FEE-RELIEF ADJUSTMENT AND LLW SURCHARGE, FY 2016

[Dollars in millions]

	LLW surcharge		Fee-relief adjustment		Total
	Percent	$	Percent	$	$
Operating Power Reactors	31	1.0	86.1	−0.1	1.0
Spent Fuel Storage/Reactor Decommissioning	0.0	0.0	3.6	−0.0	−0.0
Research and Test Reactors	0.0	0.0	0.4	0.0	0.0
Fuel Facilities	53	1.8	4.8	−0.0	1.7
Materials Users	16	0.5	3.1	0.0	0.5
Transportation	0.0	0.0	0.6	0.0	0.0
Rare Earth Facilities	0.0	0.0	0.0	0.0	0.0
Uranium Recovery	0.0	0.0	1.4	0.0	0.0
Total	100	3.3	100	−0.1	3.2

FY 2016 Fee Collection—Revised Annual Fees

In accordance with SECY–05–0164, "Annual Fee Calculation Method," dated September 15, 2005 (ADAMS Accession No. ML052580332), the NRC rebaselines its annual fees every year. Rebaselining entails analyzing the budget in detail and then allocating the budgeted costs to various classes or subclasses of licensees. It also includes updating the number of NRC licensees in its fee calculation methodology.

The NRC revised its annual fees in §§ 171.15 and 171.16 to recover approximately 90 percent of the NRC's FY 2016 budget authority (less non-fee amounts and the amount to be recovered through 10 CFR part 170 fees). The total 10 CFR part 170 collections for this final rule are $332.7 million, an increase of $11.0 million from the FY 2015 fee rule. The NRC, therefore, must recover approximately $550.7 million through annual fees from its licensees, which is a decrease of $16.3 million from the FY 2015 final rule.

Table V shows the rebaselined fees for FY 2016 for a representative list of categories of licensees. The FY 2015 amounts are provided for comparison purposes.

TABLE V—REBASELINED ANNUAL FEES

Class/category of licenses	FY 2015 final annual fee	FY 2016 final annual fee	Percentage change
Operating Power Reactors	$4,807,000	$4,659,000	−3.1
+ Spent Fuel Storage/Reactor Decommissioning	223,000	197,000	−11.7
Total, Combined Fee	5,030,000	4,856,000	−3.5
Spent Fuel Storage/Reactor Decommissioning	223,000	197,000	−11.7
Research and Test Reactors (Nonpower Reactors)	83,500	81,500	−2.4
High Enriched Uranium Fuel Facility	8,473,000	7,867,000	−7.2
Low Enriched Uranium Fuel Facility	2,915,000	2,736,000	−6.1
UF_6 Conversion and Deconversion Facility	1,731,000	1,625,000	−6.1
Conventional Mills	36,100	38,900	7.8
Typical Materials Users:			
Radiographers (Category 3O)	25,800	26,000	0.8
Well Loggers (Category 5A)	14,400	14,500	0.7
Gauge Users (Category 3P)	8,000	7,900	−1.3
Broad Scope Medical (Category 7B)	37,500	37,400	−0.3

The work papers (ADAMS Accession No. ML16161A886) that support this final rule show in detail how the NRC allocated the budgeted resources for each class of licenses and how the fees are calculated. The work papers are available as indicated in Section XIV, "Availability of Documents."

Paragraphs a. through h. of this section describe budgetary resources allocated to each class of licensees and the calculations of the rebaselined fees. For more information about detailed fee calculations for each class, please consult the accompanying work papers.

a. Fuel Facilities

The NRC will collect $31.6 million in annual fees from the fuel facility class.

TABLE VI—ANNUAL FEE SUMMARY CALCULATIONS FOR FUEL FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources	$42.8	$40.5	−5.4
Less estimated 10 CFR part 170 receipts	−11.5	−11.7	1.7
Net 10 CFR part 171 resources	31.3	28.8	−8.0
Allocated generic transportation	0.8	1.1	37.5
Fee-relief adjustment/LLW surcharge	2.1	1.7	−19.1
Billing adjustments	−0.3	0.0	−100.0
Total remaining required annual fee recovery	33.9	31.6	−6.8

In FY 2016, the fuel facilities budgetary resources decreased due to continued construction delays at multiple sites, which caused delays in NRC operational readiness reviews and NRC inspections. These delays further caused the estimated 10 CFR part 170 billings for FY 2016 to remain stable compared to FY 2015. Specifically, significant construction delays are noted for the Mixed Oxide Fuel Fabrication Facility, the International Isotopes facility, and the AREVA NC facility.

As for the annual fees, the NRC allocates annual fees to individual fuel facility licensees based on the effort/fee determination matrix developed in the FY 1999 final fee rule (64 FR 31447; June 10, 1999). To briefly recap, that matrix groups licensees into various categories. The NRC's fuel facility project managers determine the effort levels associated with regulating each category. This is done by assigning separate effort factors for the safety and safeguards activities associated with each category (for more information about this matrix, see the work papers). These effort levels are reflected in Table VII.

TABLE VII—EFFORT FACTORS FOR FUEL FACILITIES, FY 2016

Facility type (fee category)	Number of facilities	Effort factors (percent of total)	
		Safety	Safeguards
High-Enriched Uranium Fuel (1.A.(1)(a))	2	88 (44.0)	96 (56.5)
Low-Enriched Uranium Fuel (1.A.(1)(b))	3	70 (35.0)	26 (15.3)
Limited Operations (1.A.(2)(a))	0	0 (0.0)	0 (0.0)
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1	3 (1.5)	15 (8.8)
Hot Cell (1.A.(2)(c))	1	6 (3.0)	3 (1.8)
Uranium Enrichment (1.E.)	1	21 (10.5)	23 (13.5)
UF_6 Conversion and Deconversion (2.A.(1))	1	12 (6.0)	7 (4.1)

For FY 2016, the total budgeted resources for safety activities are $16.2 million. To calculate the annual fee, the NRC allocates this amount to each fee category based on its percent of the total regulatory effort for safety activities. Similarly, the NRC allocates the budgeted resources for safeguards activities ($13.7 million) to each fee category based on its percent of the total regulatory effort for safeguards activities. Finally, the fuel facility fee class' portion of the fee-relief adjustment/LLW surcharge—$1.7 million—is allocated to each fee category based on its percent of the total regulatory effort for both safety and safeguards activities. The annual fee per licensee is then calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category. The fee for each facility is summarized in Table VIII.

TABLE VIII—ANNUAL FEES FOR FUEL FACILITIES

Facility type (fee category)	FY 2015 final annual fee	FY 2016 final annual fee	Percentage change
High-Enriched Uranium Fuel (1.A.(1)(a))	$8,473,000	$7,867,000	−7.2
Low-Enriched Uranium Fuel (1.A.(1)(b))	2,915,000	2,736,000	−6.1
Limited Operations (1.A(2)(a))	0.0	0.0	0.0
Gas Centrifuge Enrichment Demonstration (1.A.(2)(b))	1,640,000	1,539,000	−6.2
Hot Cell (and others) (1.A.(2)(c))	820,000	770,000	−6.1
Uranium Enrichment (1.E.)	4,009,000	3,762,000	−6.2
UF_6 Conversion and Deconversion (2.A.(1))	1,731,000	1,625,000	−6.1

b. Uranium Recovery Facilities

The NRC will collect $0.9 million in annual fees from the uranium recovery facilities fee class, a small decrease from FY 2015.

TABLE IX—ANNUAL FEE SUMMARY CALCULATIONS FOR URANIUM RECOVERY FACILITIES

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources	$11.3	$12.3	8.9
Less estimated 10 CFR part 170 receipts	−10.1	−11.4	12.9
Net 10 CFR part 171 resources	1.2	0.9	−19.8
Allocated generic transportation	N/A	N/A	N/A
Fee-relief adjustment	0.0	0.0	0.0
Billing adjustments	−0.1	0.0	−100.0
Total required annual fee recovery	1.1	0.9	−18.2

The budgetary resources for uranium recovery increased due to additional work expected for the Uranerz Energy-Jane Doe and Strata Energy-Kenderick expansions, increased inspection activities for Strata Energy-Ross (a new licensee to fleet), and increased hearing activities. Although—in comparison to FY 2015—the total required amount for annual fee recovery decreased, annual fees for this fee class increased because there are less licensees paying annual fees in FY 2016 (two licensees, Moore Ranch and Crownpoint, were not included in the calculation for annual fees because they were licensed but not constructed and, per current NRC policy, are not required to pay annual fees).

The NRC computes the annual fee for the uranium recovery fee class by dividing the total annual fee recovery amount among DOE and the other licensees in this fee class. The annual fee increase for fee categories 2.A.(2)(a-c), 2.A.(4), and 2.A.(5) is mainly due to the increase in budgetary resources for increased hearing activities and a reduction in the number of licensees over which to spread the budget. The NRC regulates DOE's Title I and Title II activities under UMTRCA.[1] The annual fee assesses to DOE the costs specifically budgeted for the NRC's UMTRCA Title I and II activities, as well as 10 percent of the remaining budgeted costs for this fee class. The DOE's UMTRCA annual fee decreased because of an increase in estimated 10 CFR part 170 billings for DOE's UMTRCA site at Monument Valley. This decrease caused the total overall fee recovery amount to decrease for this fee class. The NRC assesses the remaining 90 percent of its budgeted costs to the rest of the licensees in this fee class, as described in the work papers. This is reflected in Table X as follows:

TABLE X—COSTS RECOVERED THROUGH ANNUAL FEES; URANIUM RECOVERY FEE CLASS

Summary of costs	FY 2015 final annual fee	FY 2016 final annual fee	Percentage change
DOE Annual Fee Amount (UMTRCA Title I and Title II) General Licenses:			
UMTRCA Title I and Title II budgeted costs less 10 CFR part 170 receipts	$622,898	$503,708	−19.1
10 percent of generic/other uranium recovery budgeted costs	41,986	41,157	−2.0
10 percent of uranium recovery fee-relief adjustment	1,251	−94	−107.5
Total Annual Fee Amount for DOE (rounded)	666,000	545,000	−18.2
Annual Fee Amount for Other Uranium Recovery Licenses:			
90 percent of generic/other uranium recovery budgeted costs less the amounts specifically budgeted for Title I and Title II activities	377,874	370,415	−2.0
90 percent of uranium recovery fee-relief adjustment	11,255	−844	−272.4
Total Annual Fee Amount for Other Uranium Recovery Licenses	389,129	369,571	−18.3

Further, for the non-DOE licensees, the NRC continues to use a matrix to determine the effort levels associated with conducting the generic regulatory actions for the different (non-DOE) licensees in this fee class; this is similar to NRC's approach for fuel facilities, described previously.

The matrix methodology for uranium recovery licensees first identifies the licensee categories included within this fee class (excluding DOE). These categories are: Conventional uranium mills and heap leach facilities; uranium *In Situ* Recovery (ISR) and resin ISR facilities; mill tailings disposal facilities; and uranium water treatment facilities. The matrix identifies the types of operating activities that support and benefit these licensees, along with each activity's relative weight (for more information, see the work papers). Table XI displays the benefit factors per licensee and per fee category, for each of the non-DOE fee categories included in the uranium recovery fee class as follows:

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[1] The Congress established the two programs, Title I and Title II, under UMTRCA to protect the public and the environment from uranium milling. The UMTRCA Title I program is for remedial action at abandoned mill tailings sites where tailings resulted largely from production of uranium for the weapons program. The NRC also regulates DOE's UMTRCA Title II program, which is directed toward uranium mill sites licensed by the NRC or Agreement States in or after 1978.

TABLE XI—BENEFIT FACTORS FOR URANIUM RECOVERY LICENSES

Fee category	Number of licensees	Benefit factor per licensee	Total value	Benefit factor percent total
Conventional and Heap Leach mills (2.A.(2)(a))	1	150	150	11
Basic *In Situ* Recovery facilities (2.A.(2)(b))	5	190	950	67
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	1	215	215	15
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	1	85	85	6
Uranium water treatment (2.A.(5))	1	25	25	2
Total	9	665	1,425	100

Applying these factors to the approximately $369,571 in budgeted costs to be recovered from non-DOE uranium recovery licensees results in the total annual fees for each fee category. The annual fee per licensee is calculated by dividing the total allocated budgeted resources for the fee category by the number of licensees in that fee category, as summarized in Table XII.

TABLE XII—ANNUAL FEES FOR URANIUM RECOVERY LICENSEES
[Other than DOE]

Facility type (fee category)	FYy 2015 final annual fee	FY 2016 final annual fee	Percentage change
Conventional and Heap Leach mills (2.A.(2)(a))	$36,100	$38,900	7.8
Basic *In Situ* Recovery facilities (2.A.(2)(b))	45,800	49,300	7.6
Expanded *In Situ* Recovery facilities (2.A.(2)(c))	51,800	55,800	7.7
11e.(2) disposal incidental to existing tailings sites (2.A.(4))	20,500	22,000	7.3
Uranium water treatment (2.A.(5))	6,000	6,500	8.3

c. Operating Power Reactors

The NRC will collect $465.9 million in annual fees from the power reactor fee class in FY 2016, as shown in Table XIII. The FY 2015 values and percentage change are shown for comparison.

TABLE XIII—ANNUAL FEE SUMMARY CALCULATIONS FOR OPERATING POWER REACTORS
[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources	$762.1	$750.4	−1.5
Less estimated 10 CFR part 170 receipts	−284.1	−287.8	1.3
Net 10 CFR part 171 resources	478.0	462.6	−3.2
Allocated generic transportation	1.7	1.8	5.9
Fee-relief adjustment/LLW surcharge	2.1	1.0	−52.4
Billing adjustment	−5.9	0.6	−110.2
Total required annual fee recovery	475.9	465.9	−2.0

In comparison to FY 2015, the operating power reactors budgetary resources decreased in FY 2016 due to a decrease in the budgeted activities for new-reactor activities. This decrease is attributable to delays in application submittals and a slowdown in requests for design certification renewal and construction permits. Accordingly, the FY 2016 operating power reactor annual fee decreased. In addition to decreased budgetary resources, an additional licensee (Watts Bar) was added to the operating fleet. This increases the number of licensees paying this annual fee, which also, in turn, lowers annual fees compared to FY 2015.

Compared with FY 2015, 10 CFR part 170 estimated billings increased due to the design certification work for APR1400 Korea Hydro.

The recoverable budgeted costs are divided equally among the 100 licensed power reactors resulting in an annual fee of $4,659,000 per reactor. Additionally, each licensed power reactor is assessed the FY 2016 spent fuel storage/reactor decommissioning annual fee of $197,000 (see the discussion that follows). The combined FY 2016 annual fee for power reactors is, therefore, $4,856,000.

d. Spent Fuel Storage/Reactors in Decommissioning

The NRC will collect $24.0 million in annual fees from 10 CFR part 50 power reactors and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license to collect the budgeted costs for spent fuel storage/reactor decommissioning.

TABLE XIV—ANNUAL FEE SUMMARY CALCULATIONS FOR THE SPENT FUEL STORAGE/REACTOR IN DECOMMISSIONING FEE CLASS

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources	$32.4	$30.5	−5.9
Less estimated 10 CFR part 170 receipts	−5.9	−7.5	27.1
Net 10 CFR part 171 resources	26.5	23.0	−13.2
Allocated generic transportation costs	1.0	1.0	−3.3
Fee-relief adjustment	0.0	0.0	−106.5
Billing adjustments	−0.3	0.0	−109.7
Total required annual fee recovery	27.2	24.0	−11.8

In comparison to FY 2015, the annual fee decreased due to a decline in budgetary resources for rulemaking security guidance and waste research. This decrease is partially offset by the slight increase in 10 CFR part 170 billings, due to work on the consolidated storage facility with Waste Control Specialist and renewal work with Transnuclear. The required annual fee recovery amount is divided equally among 122 licensees, resulting in an FY 2016 annual fee of $197,000 per licensee.

e. Research and Test Reactors (Nonpower Reactors)

The NRC will collect $0.326 million in annual fees from the research and test reactor licensee class.

TABLE XV—ANNUAL FEE SUMMARY CALCULATIONS FOR RESEARCH AND TEST REACTORS

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources	$2.510	$3.799	51.4
Less estimated 10 CFR part 170 receipts	−2.190	−3.510	60.3
Net 10 CFR part 171 resources	0.320	0.289	−9.6
Allocated generic transportation	0.032	0.034	6.3
Fee-relief adjustment	0.002	0.000	−100.0
Billing adjustments	−0.019	0.003	−84.2
Total required annual fee recovery	0.334	0.326	−2.3

In FY 2016, the annual fees decreased due to a decline in contract support for the non-power reactors and an increase in estimated 10 CFR part 170 billings for non-power production and utilization facility applications to produce molybdenum-99. The required annual fee-recovery amount is divided equally among the four research and test reactors subject to annual fees and results in an FY 2016 annual fee of $81,500 for each licensee.

f. Rare Earth

The agency received an application for a rare-earth facility in FY 2015. The NRC has allocated approximately $460,000 in budgeted resources to this fee class. But, because all of these budgetary resources will be recovered through 10 CFR part 170 fees, the NRC will not collect an annual fee in FY 2016 for this fee class.

g. Materials Users

The NRC will collect $35.0 million in annual fees from materials users licensed under 10 CFR parts 30, 40, and 70.

TABLE XVI—ANNUAL FEE SUMMARY CALCULATIONS FOR MATERIALS USERS

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total budgeted resources for licensees not regulated by Agreement States	$34.1	$33.2	−2.6
Less estimated 10 CFR part 170 receipts	−1.0	−1.1	10.0
Net 10 CFR part 171 resources	33.1	32.1	−3.0
Allocated generic transportation	2.2	2.4	9.1
Fee-relief adjustment/LLW surcharge	0.6	0.5	−16.7
Billing adjustments	−0.2	0.0	−110.3
Total required annual fee recovery	35.7	35.0	−2.0

To equitably and fairly allocate the $35.0 million in FY 2016 budgeted costs among approximately 2,900 diverse materials users licensees, the NRC continues to calculate the annual fees for each fee category within this class based on the 10 CFR part 170 application fees and estimated inspection costs for each fee category. Because the application fees and inspection costs are indicative of the complexity of the license, this approach provides a proxy for allocating the generic and other regulatory costs to the diverse categories of licenses based on the NRC's cost to regulate each category. This fee-calculation method also considers the inspection frequency (priority), which is indicative of the safety risk and resulting regulatory costs associated with the categories of licenses.

The annual fee for these categories of materials users' licenses is developed as follows:

Annual fee = Constant × [Application Fee + (Average Inspection Cost/Inspection Priority)] + Inspection Multiplier × (Average Inspection Cost/Inspection Priority) + Unique Category Costs.

For FY 2016, the constant multiplier necessary to recover approximately $25.3 million in general costs (including allocated generic transportation costs) is 1.52. The average inspection cost is the average inspection hours for each fee category multiplied by the hourly rate of $265. The inspection priority is the interval between routine inspections, expressed in years. The inspection multiplier is the multiple necessary to recover approximately $8.9 million in inspection costs, and is 1.78 for FY 2016. The unique category costs are any special costs that the NRC has budgeted for a specific category of licenses. For FY 2016, approximately $249,000 in budgeted costs for the implementation of revised 10 CFR part 35, "Medical Use of Byproduct Material (unique costs)," has been allocated to holders of NRC human-use licenses.

The annual fee assessed to each licensee also includes a share of the fee-relief assessment of approximately −$2,000 allocated to the materials users fee class (see Table IV, "Allocation of Fee-Relief Adjustment and LLW Surcharge, FY 2016," in Section III, "Discussion," of this document), and for certain categories of these licensees, a share of the approximately $525,200 LLW surcharge costs allocated to the fee class. The annual fee for each fee category is shown in § 171.16(d).

h. Transportation

The NRC will collect $7.8 million in annual fees to recover generic transportation budgeted resources. The FY 2015 values are shown for comparison.

TABLE XVII—ANNUAL FEE SUMMARY CALCULATIONS FOR TRANSPORTATION

[Dollars in millions]

Summary fee calculations	FY 2015 final	FY 2016 final	Percentage change
Total Budgeted Resources	$10.0	$11.3	13.0
Less Estimated 10 CFR part 170 Receipts	−2.6	−3.5	11.5
Net 10 CFR part 171 Resources	7.4	7.8	5.4
Fee-relief adjustment/LLW surcharge	0.0	0.0	0.0
Billing adjustments	0.0	0.0	0.0
Total required annual fee recovery	7.4	7.8	5.4

In comparison to FY 2015, the total budgetary resources for generic transportation activities increased due to the rulemaking activities involving 10 CFR part 71 Compatibility with IAEA (International Atomic Energy Agency) Transportation Standards and Improvements, which is offset by the increase in part 170 estimated billings for licensing review work involving Holtec International, EnergySolutions and Areva Federal Services.

Consistent with the policy established in the NRC's FY 2006 final fee rule (71 FR 30721; May 30, 2006), the NRC recovers generic transportation costs unrelated to DOE as part of existing annual fees for license fee classes. The NRC continues to assess a separate annual fee under § 171.16, fee category 18.A. for DOE transportation activities. The amount of the allocated generic resources is calculated by multiplying the percentage of total Certificates of Compliance (CoCs) used by each fee class (and DOE) by the total generic transportation resources to be recovered. The DOE annual fee decrease is mainly due to 10 CFR part 171 billing adjustments.

This resource distribution to the licensee fee classes and DOE is shown in Table XVIII. Specifically, for the research and test reactors fee class the NRC allocates the distribution to only the licensees that are subject to annual fees. Three CoCs benefit the entire research and test reactor class, but only 4 out of 31 research and test reactors are subject to annual fees. The number of CoCs used to determine the proportion of generic transportation resources allocated to research and test reactors annual fees is adjusted to 0.4 so that the licensees subject to annual fees are charged a fair and equitable portion of the total. For more information see the final rule work papers.

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2016

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
DOE	18.0	20.4	1.6
Operating Power Reactors	20.0	22.6	1.8
Spent Fuel Storage/Reactor Decommissioning	11.0	12.5	1.0

TABLE XVIII—DISTRIBUTION OF GENERIC TRANSPORTATION RESOURCES, FY 2016—Continued

[Dollars in millions]

License fee class/DOE	Number of CoCs benefiting fee class or DOE	Percentage of total CoCs	Allocated generic transportation resources
Research and Test Reactors	0.4	0.4	0.0
Fuel Facilities	12.0	13.6	1.0
Materials Users	27.0	30.5	2.4
Total	88.4	100.0	7.8

The NRC assessed an annual fee to DOE based on the 10 CFR part 71 CoCs it holds. The NRC, therefore, does not allocate these DOE-related resources to other licensees' annual fees because these resources specifically support DOE.

FY 2016—Fee Policy Change

The NRC makes one policy change:

Charging User Fees for NRC Work Spent on Responding to Touhy Requests [2]

The NRC's Touhy regulations—found at 10 CFR 9.200 through 9.204—govern the manner in which the NRC responds to third-party subpoenas or demands for official information served on agency employees. Those third-party subpoenas seek NRC employees to produce documents, to testify, or to do both, in outside litigation in which neither the NRC nor the United States is a named party.

Currently, NRC regulations do not authorize the NRC to collect user fees for the work it performs either collecting and providing documents or providing oral testimony in depositions or before an administrative or judicial tribunal. Yet, NRC work on some Touhy requests can be quite substantial. Without an existing regulation authorizing the NRC to collect user fees, the costs of this work must be recovered through annual fees under 10 CFR part 171. Therefore, the NRC amends its regulations to begin assessing 10 CFR part 170 user fees to recover the NRC staff's costs when responding to significant Touhy requests once NRC work on a request exceeds 50 hours.

The authority for assessing these fees comes from the same statute that provides the authority for the NRC's 10 CFR part 170 fee schedule. That statute—the IOAA—sets forth Congressional policy that "each service or thing of value provided by an agency . . . to a person . . . is to be self-sustaining to the extent possible." [3] Here, when the NRC complies with a third-party demand for information, the NRC is bestowing a benefit on a private litigant because the NRC is aiding that private litigant in its litigation by providing the information. That benefit is not shared by other members of society. The NRC's work on substantial Touhy requests should, therefore, be recovered under 10 CFR part 170 rather than the current process, which bins those costs to 10 CFR part 171. This full-cost recovery under 10 CFR part 170 would apply to both requests for documents and requests for oral testimony.[4]

Additionally, the NRC has created a fifty hour *de minimis* fee exception to ensure that 10 CFR part 170 fees are assessed for only significant Touhy requests.[5] This is because the NRC believes that non-corporate Touhy requests for a limited set of documents should not be subject to fees. Once NRC work on a Touhy exceeds fifty hours, however, the Touhy requester will be billed for the full amount of work—this provides an incentive for Touhy requesters to keep their requests from becoming overly burdensome.[6]

FY 2016—Administrative Changes

The NRC also makes three administrative changes:

1. Increase Direct Hours per Full-Time Equivalent in the Hourly Rate Calculation

The hourly rate in 10 CFR part 170 is calculated by dividing the cost per direct FTE by the number of direct hours per direct FTE in a year. "Direct hours" are hours charged to mission-direct activities in the Nuclear Reactor Safety Program and Nuclear Materials and Waste Safety Program. The FY 2015 final fee rule used 1,420 hours per direct FTE in the hourly rate calculations. During the FY 2016 budget formulation process, the NRC staff reviewed and analyzed time and labor data from FY 2014 through FY 2015 to determine whether it should revise the direct hours per FTE. Between FY 2014 and FY 2015, the total direct hours charged by direct employees increased. The increase in direct hours was apparent in all mission business lines. To reflect this increase in productivity as demonstrated by the time and labor data, the NRC staff determined that the number of direct hours per FTE should increase to 1,440 hours for FY 2016.

2. Amend Language Under 10 CFR 170.11 To Clarify Exemption Requirements

The NRC amends the language under 10 CFR 170.11(a)(1) to clarify when stakeholders can receive a fee exemption after submitting a report to the NRC for review. The NRC removed paragraph (a)(1)(iii) and instead will rely on the related criteria in exemptions in paragraphs (a)(1)(i) and (a)(1)(ii) for the distinct criteria that stakeholders can use to receive a fee exemption after NRC review of a "special project that is a request/report submitted to the NRC." The NRC also moved the requirements in current paragraph (a)(1)(iii)(C) that require stakeholders to submit their fee exemption requests in writing to the Chief Financial Officer to a new paragraph (a)(13). These requirements will now apply to all fee exemption criteria, not just special projects.

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[2] The name "Touhy" is derived from the leading Supreme Court case in this area, *United States ex rel Touhy* v. *Ragen*, 340 U.S. 462 (1951).

[3] 31 U.S.C. 9701.

[4] "Oral testimony" in the Touhy context includes requests for both testimony during administrative and judicial proceedings, as well as depositions.

[5] The NRC chose fifty hours because past experience shows that fifty hours provides a demarcation point between significant and insignificant Touhy requests. As an illustrative example, a common type of Touhy request involves a request for documents in a divorce proceeding, where one of the ex-spouses works at the NRC, and the other ex-spouse needs access to certain personnel files (such as that NRC employee's work schedule) for purposes of addressing custody, *etc.* These cases involve simple requests for discrete and non-deliberative documents, require limited processing time, and thus should not be subject to user fees.

[6] Even if the Touhy request exceeds fifty hours, that Touhy requester would still be able to seek a fee exemption under § 170.11(b) if the facts are such that granting a fee exemption would be "in the public interest."

3. Change Small Entity Fees

In accordance with NRC policy, the NRC staff conducted a biennial review in 2015 of small entity fees to determine whether the NRC should change those fees. The NRC staff used the fee methodology developed in FY 2009 that applies a fixed percentage of 39 percent to the prior 2-year weighted average of materials users' fees when performing its biennial review. As a result of the NRC staff's review, the upper tier small entity fee increased from $2,800 to $4,000 and the lower-tier fee increased from $600 to $900. This constituted a 43-percent and 50-percent increase, respectively. Implementing this increase would have had a disproportionate impact upon the NRC's small licensees compared to other licensees, and so the NRC staff revised the increase to 21 percent for the upper-tier fee. The NRC staff chose 21 percent based on the average percentage increase for the prior two biennial reviews of small entity fees. Because of a technical oversight, the change was not included in the FY 2015 final fee rule. Accordingly, the NRC staff now amends the upper-tier small entity fee to $3,400 and amends the lower-tier small entity fee to $700 for FY 2016. The NRC staff believes these fees are reasonable and provide relief to small entities while at the same time recovering from those licensees some of the NRC's costs for activities that benefit them.

FY 2016—Billing

The FY 2016 fee rule is a major rule as defined by the Congressional Review Act of 1996 (5 U.S.C. 801–808). Therefore, the NRC's fee schedules for FY 2016 will become effective 60 days after publication of the final rule in the **Federal Register**. Upon publication of the final rule, the NRC will send an invoice for the amount of the annual fees to reactor licensees, 10 CFR part 72 licensees, major fuel cycle facilities, and other licensees with annual fees of $100,000 or more. For these licensees, payment is due 30 days after the effective date of the FY 2016 final rule. Because these licensees are billed quarterly, the payment amount due is the total FY 2016 annual fee less payments made in the first three quarters of the fiscal year.

Materials licensees with annual fees of less than $100,000 are billed annually. Those materials licensees whose license anniversary date during FY 2016 falls before the effective date of the FY 2016 final rule will be billed for the annual fee during the anniversary month of the license at the FY 2015 annual fee rate. Those materials licensees whose license anniversary date falls on or after the effective date of the FY 2016 final rule will be billed for the annual fee at the FY 2016 annual fee rate during the anniversary month of the license, and payment will be due on the date of the invoice.

III. Opportunities for Public Participation

The NRC published the FY 2016 proposed fee rule in the **Federal Register** on March 23, 2016 (81 FR 15457), for a 30-day public comment period. The rule proposed to amend the licensing, inspection, special project, and annual fees charged to the NRC's applicants and licensees and, for the first time, proposed to recover the NRC's costs when it responds to third-party demands for information in litigation where the United States is not a party ("Touhy requests"). These proposed amendments were necessary to implement OBRA–90, as amended, which requires the NRC to recover approximately 90 percent of its annual budget through fees. The public comment period for the proposed rule closed on April 22, 2016.

The NRC also held a public meeting on April 13, 2016, to provide more transparency regarding fees in relation to the budget process and fulfill its commitment to external stakeholders to address NRC program processes and inefficiencies mentioned in the comments submitted for the FY 2015 proposed fee rule. During the public meeting, the NRC received no comments on the FY 2016 proposed fee rule. The public meeting transcript is available as indicated in Section XIV, Availability of Documents, of this document.

IV. Public Comment Analysis

Overview of Public Comments

The NRC received seven written comment submissions for the proposed rule. A comment submission for the purpose of this rule is defined as a communication or document submitted to the NRC by an individual or entity, with one or more distinct comments addressing a subject or an issue. A comment, on the other hand, refers to a statement made in the submission addressing a subject or issue. In general, the commenters were supportive of the specific proposed regulatory changes, although most commenters expressed concerns about broader fee-policy issues related to transparency and fairness.

The commenters are listed in Table XXII, and are classified as follows: Three members of the uranium industry (Kennecott Uranium Company, Wyoming Mining Association (WMA), and Uranerz Energy Corporation); one nuclear materials licensee (Rendezvous Engineering); one nuclear medicine materials licensee (anonymous); one nuclear power plant (Southern Nuclear Operating Company); and one industry trade group (Nuclear Energy Institute (NEI)).

TABLE XIX—FY 2016 PROPOSED FEE RULE COMMENTER SUBMISSIONS

Commenter	Affiliation	ADAMS Accession No.	Acronym
Anonymous	Bell Hospital	ML16113A270	
Jonathan Downing	Wyoming Mining Association	ML16113A271	WMA
Anthony R. Pietrangelo	Nuclear Energy Institute	ML16113A272	NEI
Oscar Paulson	Kennecott Uranium Company	ML16113A273	N/A
C.R. Pierce	Southern Nuclear Operating Company	ML16116A030	SNC
William P. Goranson	Uranerz Energy Corporation	ML16117A254	N/A
Matthew Ostdiek	Rendezvous Engineering, P.C	ML16126A366	N/A

Information about obtaining the complete text of the comment submissions is available in Section XIV, "Availability of Documents," of this document.

Public Comments and NRC Responses

The NRC has carefully considered the public comments received. The comments have been organized by topic followed by the NRC response.

A. Hourly Rate

Comment: The hourly rate—despite the decrease from $268 to $266—remains high in comparison to the hourly rates of consultants working in the uranium recovery industry. (Kennecott Uranium Company, Wyoming Mining Association, and Uranerz Energy Corporation)

Response: To the extent the commenter believes that the NRC's hourly rate should be comparable to the hourly rate for uranium-recovery consultants, the NRC disagrees with this comment. All fees assessed to licensees and applicants by the NRC must conform to OBRA–90 and IOAA requirements, in contrast to industry consultants working for the uranium recovery industry. Under the IOAA, the NRC must recover its full costs of providing specific regulatory benefits to identifiable applicants and licensees. In so doing, the NRC establishes an hourly rate for its work. Consistent with the IOAA, the NRC determines its hourly rate by dividing the sum of recoverable budgeted resources for: (1) Mission-direct program salaries and benefits; (2) mission-indirect program support; and (3) agency support—which includes corporate support, office support (FY 2015 only), and the IG. The mission-direct FTE hours are the product of the mission-direct FTE multiplied by the hours per direct FTE. The only budgeted resources excluded from the hourly rate are those for contract activities related to mission-direct and fee-relief activities.

No change was made to the final rule in response to this comment.

Comment: The hourly rate calculation identifies $362.9 million in mission-direct program activities, which represents only 41 percent of the total adjusted amount that the NRC must recover through fees ($883.9 million). This shows that the budget portion allocated to "corporate support" (which is a key factor in the hourly rate calculation) is disproportionally large in comparison to those resources allocated for mission-direct and mission-indirect activities. Further, the NRC's reclassification of "office support" activities into either "corporate support" or "mission-indirect support" gives the appearance of a greater reduction in corporate support activities than actually took place. The NRC needs to reduce these non-mission direct activities. (NEI)

Response: The NRC disagrees that the budget portion allocated to corporate support is disproportionate to resources allocated to mission activities. First, in calculating the percentage of mission-direct program activities, the commenter does not take into account all mission-direct resources contained in the total budget authority presented in the FY 2016 proposed fee rule. The $362.9 million referenced by the commenter includes only mission-direct salaries and benefits—it does not include the mission-direct amount for contract support, which is an additional $154.9 million. Although not included within the hourly rate, mission-direct contract support is a significant component of the direct costs within the agency's total budget authority. Total mission-direct program activities—including salaries, benefits, and contract support—equals $517.8 million. Further, the $138.7 million that the NRC budgeted for mission-indirect program support brings the NRC's total budgeted mission costs to $656.5 million.

Second, the NRC disagrees that reclassification of office support activities into either "corporate support" or "mission-indirect support" gives the appearance of a greater reduction in corporate support than actually took place. During the 5-year period when the agency used the office support budget structure, mission-indirect resources—including supervisory FTE in the agency's program offices and regions, and other programmatic support resources—were identified as agency corporate support in the annual fee rule, thus making the portion of the budget allocated to corporate support appear larger than it actually was. The reclassification of office support returns mission-indirect resources to their location in the budget prior to FY 2011; in so doing, these resources are now once again properly represented in the annual fee rule as program costs rather than corporate costs. Although the budget structure change results in a more appropriate categorization of agency support resources, it does not affect the treatment of mission-indirect resources in the final fee rule calculations. Even when budgeted as office support, mission-indirect costs were recovered in the hourly rate, and they continue to be recovered through the hourly rate after re-categorization.

The NRC has taken a hard look at overhead resources, reducing both FTE and contract support dollars through streamlining initiatives. Final FY 2016 resources for agency support reflect reductions in the corporate support portion of the budget, as compared to the FY 2016 Congressional Budget Justification. The NRC will implement further reductions to corporate support and mission-indirect resources in FY 2017.

No change was made to the final rule in response to this comment.

B. Fairness of Fees

Comment: As the number of NRC licensees decline, the fact that the NRC's budget has not correspondingly declined means that the remaining licensees must pay higher annual fees. For example, in situ recovery facilities fees have increased 71 percent since FY 2012. And, as more power reactors leave the fleet, the current fee structure will require the remaining licensees to bear an even higher annual fee burden. (NEI)

Response: The fees assessed to licensees and applicants by the NRC must conform to OBRA–90, which requires the NRC to collect approximately 90 percent of its annual budget authority (less certain excluded items) through both user fees and annual fees. The NRC can assess these annual fees only to licensees or certificate holders, and the annual fee schedule must be fair and must equitably allocate annual fees among the NRC's many licensees. To ensure optimal compliance with OBRA–90, the NRC makes continual organizational improvements to align its resources needed to support its regulatory activities. This should help mitigate licensees leaving a fee class by helping the NRC develop budgets that account for regulating a fee class with a declining number of licensees. The NRC is also conducting a separate effort to obtain public comment on a number of broader issues related to NRC fees. For information on the issues and comments received, please see *http://regulations.gov* under Docket ID NRC–2016–0056.

No change was made to the final rule in response to this comment.

C. Uranium Recovery

Comment: The NRC proposed to increase uranium recovery annual fees by over 10 percent for each uranium recovery fee category. The NRC has not justified this increase and must provide a detailed explanation as to why annual fees are increasing by this much. Specifically, to the extent that annual fees are increasing due to increased inspection activities and other additional work, then that work should be recovered through 10 CFR part 170 hourly charges rather than 10 CFR part 171 annual fees. Also, based on invoices received by Kennecott Uranium Company, it appears that uranium recovery licensees are adequately supporting the NRC's uranium recovery program through the payment of hourly charges. (Kennecott Uranium Company, Wyoming Mining Association, and Uranerz Energy Corporation)

Response: The NRC disagrees with the commenter's argument that the NRC has not justified the increase in uranium recovery annual fees. The primary reason for the increase was a decrease in the number of licensees that were required to pay annual fees. Two licensees, Moore Ranch and Crownpoint, were not included in the calculation for annual fees because they were licensed but not constructed; per current NRC policy, therefore, those licensees are not required to pay annual fees. Further, in FY 2016, activities that cannot be billed under the hourly charges in 10 CFR part 170 continued. An example of these activities include hearings associated with four application reviews: (i) The Crow Butte license renewal; (ii) the Crow Butte Marsland new license review; (iii) the Powertech Dewey Burdock new license review; and (iv) the Strata Ross new license. In these hearings, the NRC's technical staff supports the Office of the General Counsel by providing expert testimony on areas such as groundwater, the National Environmental Policy Act, Tribal consultation, seismology, and geochemistry. Other examples of part 171 activities include NRC staff support for non-licensing tasks (such as responding to inquiries, meetings with the U.S. Environmental Protection Agency regarding their draft 40 CFR part 192 Rule, regulatory guidance development, and Tribal outreach).

No change was made to the final rule in response to this comment.

Comment: More uranium recovery activities should be paid out of the congressional 10-percent appropriation to lower fees for uranium recovery licensees. (Uranerz Energy Corporation)

Response: The NRC disagrees that more uranium recovery activities should be paid out of the congressional 10-percent appropriation. The NRC accounts for its 10-percent congressional appropriation by budgeting for "fee-relief" activities. These typically include activities that are not attributable to an existing NRC licensee or class of licensee. Or they include activities for which the NRC cannot collect fees under existing law. Historically, the NRC has not designated uranium recovery activities as fee-relief activities because uranium activities are attributable to a discrete class of licensees, and the NRC can lawfully assess fees to uranium recovery licensees under OBRA–90 and the IOAA. Here, the commenter has not explained why the NRC should allocate a portion of uranium recovery activities to fee relief given the fact that the NRC can identify uranium recovery licensees and can lawfully assess fees to those licensees.

No change was made to the final rule in response to this comment.

Comment: There is an error in the FY 2016 proposed work papers in Section III.A. Specifically, under the table for "Mission-Direct Budgeted Resources," there is no description for line 5, and line 12 does not properly sum from lines 5, 8, 10, and 11. (Uranerz Energy Corporation)

Response: The NRC disagrees that there is an error in the FY 2016 proposed work papers in Section III.A. relating to the table for "Mission-Direct Budgeted Resources" because such a table is not included in this section of the work papers. But, the NRC agrees that within the work papers—specifically section III.B.2.b—the description for line 5 "Net Part 171 Allocations—with allocated transportation," was unintentionally omitted by the NRC. The NRC also understands that reconciling the amounts illustrated in the summary for the annual fee lines 5, 8, 10 and 11 could be clearer due to the dissimilar decimal points used for rounding. The NRC will correct the final fee rule work papers to include the omitted line description and reuse decimal placement for consistency.

No change was made to the final rule in response to this comment (but a change was made to the work papers).

D. Touhy Fees

Comment: For the first time, the NRC is proposing to recover costs associated with processing third-party demands for information in litigation where the United States is not a party. How will the NRC ensure that these costs are actually directly billed to the third party so that they are not passed on to other licensees through annual fees? (Kennecott Uranium Company and Wyoming Mining Association)

Response: Touhy requests are sent directly to the Office of the General Counsel in the form of a subpoena or other demand for information. The Offices of the General Counsel and Chief Financial Officer have developed internal controls to capture and track all NRC staff time spent on Touhy requests by using unique Cost Activity Codes. When the Office of the General Counsel receives a subpoena, it will validate the request, identify the billable party, and request a Cost Activity Code that is unique to the subpoena for billing purposes under 10 CFR part 170. This process will further use a mechanism to identify when the *de minimis* threshold (50 hours) is reached to ensure only those requests exceeding fifty hours are billed under 10 CFR part 170.

No change was made to the final rule in response to this comment.

E. Miscellaneous

Comment: How is this proposed rule going to affect the licensing fees for Bell Hospital in Ishpeming, Michigan? Is this hospital listed as a small entity? (Anonymous)

Response: Bell Hospital in Ishpeming, Michigan, currently holds a license for Medical Institution—Limited Scope—Written Directive Required (program code 02120; fee category 7.C.) and Source Material Shielding (program code 11210; fee category 2.B.). Per the FY 2015 final fee rule and the FY 2016 proposed fee rule, the annual fee for fee category 7.C. is unchanged at $13,300; therefore, the FY 2016 final fee rule will not affect the fee for this portion of the license. Further, licensees that pay fees under fee category 7.C. are not subject to fees under fee category 2.B. for possession and shielding authorized on the same license. Therefore, the FY 2016 final fee rule will not have any impact to the fees Bell Hospital is currently paying. Finally, Bell Hospital is not currently considered a small entity by the NRC.

No change was made to the final rule in response to this comment.

Comment: The proposed fee rule identified $12.6 million for international assistance activities as a fee-relief activity. Yet, there are no other listed budgeted costs related to other international activities in the proposed rule. The work papers do list total funding for international activities as being $23.2 million, which leaves approximately $10.6 million in international activities that were rolled into the fee base. To the extent this additional $10 million was also spent on international cooperation or international assistance activities, then it is not clear what direct benefit the domestic regulated community is receiving through these activities. (NEI)

Response: As stated in the proposed rule, the amount of international assistance activities that the NRC allocated to international fee relief is $12.6 million. The amount not included under international fee relief activities represents international resources that the NRC assigned to each mission-direct fee class. Specifically, these resources represent international cooperation activities (rather than international assistance activities). These cooperation activities do, in fact, benefit a group of NRC licensees. For example, international cooperative activities involve sharing information, knowledge, and technical expertise with the NRC's international regulatory counterparts. This enhances the NRC's regulatory programs by providing direct input into the NRC's regulation and oversight of its licensees. International cooperation activities also provide other benefits to NRC licensees, such as collaborative research that is relevant to the NRC's regulatory programs. The NRC continuously assesses and, where relevant, incorporates international operating experience and research insights into the NRC's domestic regulatory program. For example, power reactor licensees may benefit from international efforts to exchange information on regulatory experience and expertise on construction, startup, and the operation of nuclear power plants.

No change was made to the final rule in response to this comment.

Comment: In the FY 2015 final fee rule, the NRC revised its methodology for charging overhead time for project managers and resident inspectors under 10 CFR part 170. Specifically, the NRC started to allocate overhead costs to each licensee based on direct time to each docket to ensure that a licensee's overhead costs were proportional to the regulatory services rendered by the NRC. This has led, in some cases, to licensees being double- or triple-charged for project manager time. For example, some licensees have received invoices for project manager time being charged through the 6-percent project manager allocation, project management TACs, and directly technical TACs. The NRC should be more consistent and try to avoid multiple billings for the same work. (NEI)

Response: To the extent the commenter believes that the NRC is double- and triple- billing licensees, the NRC disagrees with this comment. The NRC staff charges to direct billable cost activity codes (CACs) only when that work benefits a single, identifiable licensee. The project manager (PM)/ resident inspector (RI) allocation recovers the costs for all PMs and senior resident inspectors (SRIs) that are not directly attributable to a single licensee, but rather benefit the entire class of licensees (*e.g.*, indirect activities such as PM technical support to the regional offices, PM training and attendance at conferences, PM participation in working groups). When a PM or SRI supports work under this allocation, the PM is not directly billing a licensee. This activity is pooled and distributed to all licensees as 6 percent of the direct labor charges provided by agency staff. Because these activities ultimately benefit all licensees, the agency has instituted average cost recovery to recover from all licensees for these activities.

No change was made to the final rule in response to this comment.

Comment: Regarding small entity size standards, the NRC should consider establishing lower licensing fees by creating one or more additional steps between the $520,000 to $7,500,000 range. A fee rate schedule with more steps for small businesses would help reduce the license fee burden on the smaller entities. (Rendezvous Engineering, P.C.)

Response: To reduce the burden of the NRC's annual fees on small entities, the NRC established the maximum small entity fee in 1991. In FY 1992, the NRC introduced a second lower tier to the small entity fee. Because the NRC's methodology for small entity size standards has been approved by the Small Business Administration, the NRC did not modify its current methodology for this rulemaking. The NRC is currently reviewing its small business size standards to determine if a change is needed to the number of fee steps in order to fairly and equitably access fees for all licensees.

No change was made to the final rule in response to this comment.

E. Comments on Matters Not Related to This Rulemaking

Some comments suggested that the NRC implement a number of recommendations to streamline the regulatory process, prepare more detailed invoices, examine staffing and the NRC's budget structure, increase travel funds to allow for the audits of topical reports, etc. Other commenters expressed their belief that uranium recovery sites should require the least amount of NRC regulatory oversight because they are the lowest risk sector of the nuclear fuel cycle.

All of these matters are outside the scope of this rulemaking. The primary purpose of the NRC's annual fee recovery rulemaking is to update the NRC's fee schedules to recover approximately 90 percent of the appropriations that the NRC received for the current fiscal year, and to make other necessary corrections or appropriate changes to specific aspects of the NRC's fee regulations in order to ensure compliance with OBRA–90, as amended.

The NRC takes very seriously the importance of examining and improving the efficiency of its operations and the prioritization of its regulatory activities. Recognizing the importance of continuous reexamination and improvement of the way the agency does business, the NRC has undertaken, and continues to undertake, a number of significant initiatives aimed at improving the efficiency of NRC operations and enhancing the agency's approach to regulating. For example the NRC published a request for information on March 22, 2016, 81 FR 15352. This request asked for input from the stakeholders regarding the general communications the NRC provides about its fees and the public's understanding of the NRC's fee setting process. Though comments addressing these issues may not be within the scope of this fee rulemaking, the NRC will consider this input in its future program operations.

V. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, as amended,[7] the NRC has prepared a regulatory flexibility analysis (RFA) relating to this final rule. The RFA is available as indicated in Section XIV, Availability of Documents, of this document.

VI. Regulatory Analysis

Under OBRA–90 and the AEA, the NRC is required to recover 90 percent of its budget authority, or total appropriations of $1,002.1 million, in FY 2016. The NRC established fee methodology guidelines for 10 CFR part 170 in 1978, and established additional fee methodology guidelines for 10 CFR part 171 in 1986. In subsequent rulemakings, the NRC has adjusted its fees without changing the underlying principles of its fee policy to ensure that the NRC continues to comply with the statutory requirements for cost recovery in OBRA–90 and the AEA.

In this rulemaking, the NRC continues this long-standing approach. Therefore, the NRC did not identify any alternatives to the current fee structure guidelines and did not prepare a regulatory analysis for this rulemaking.

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this final rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

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[7] 5 U.S.C. 603. The Regulatory Flexibility Act, 5 U.S.C. 601–612, has been amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), Public Law 104–121, Title II, 110 Stat. 847 (1996).

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, "Plain Language in Government Writing," published June 10, 1998 (63 FR 31883).

IX. National Environmental Policy Act

The NRC has determined that this rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this final rule.

X. Paperwork Reduction Act

This final rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

XI. Congressional Review Act

In accordance with the Congressional Review Act of 1996 (5 U.S.C. 801–808), the NRC has determined that this action is a major rule and has verified the determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

XII. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this final rule, the NRC proposes to amend the licensing, inspection, and annual fees charged to its licensees and applicants, as necessary, to recover approximately 90 percent of its budget authority in FY 2016, as required by OBRA–90, as amended. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XIII. Availability of Guidance

The Small Business Regulatory Enforcement Fairness Act requires all Federal agencies to prepare a written compliance guide for each rule for which the agency is required by 5 U.S.C. 604 to prepare a regulatory flexibility analysis. The NRC, in compliance with the law, prepared the "Small Entity Compliance Guide" for the FY 2015 final fee rule. This document, which has been relabeled for FY 2016, is available as indicated in Section XV, Availability of Documents, of this document. The next compliance guide will be developed when the NRC completes the next small entity biennial review in FY 2017.

XIV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No./Web link/**Federal Register** citation
FY 2016 Final Rule Work Papers	ML16161A886.
FY 2016 Regulatory Flexibility Analysis	ML16144A548.
FY 2016 U.S. Nuclear Regulatory Commission Small Entity Compliance Guide.	ML16043A334.
NUREG–1100, Volume 31, "Congressional Budget Justification: Fiscal Year 2016" (February 2, 2015).	NRC: Congressional Budget Justification: Fiscal Year 2016 (NUREG–1100, Volume 31).
NRC Form 526, Certification of Small Entity Status for the Purposes of Annual Fees Imposed under 10 CFR Part 171.	*http://www.nrc.gov/reading-rm/doc-collections/forms/nrc526.pdf.*
Consolidated and Further Continuing Appropriations Act, 2016	*https://www.congress.gov/bill/114th-congress/house-bill/2029/text.*
SECY–05–0164, "Annual Fee Calculation Method," September 15, 2005.	ML052580332.
FY 2016 Proposed Fee Rule Comment Submissions	ML16138A011.
Transcript of Public Meeting on Fees, April 13, 2016	ML16105A045.
OMB's Circular A–25, "User Charges"	*https://www.whitehouse.gov/omb/circulars_default.*
FY 2016 Proposed Fee Rule	ML16048A188.
FY 2016 Proposed Rule Work Papers	ML16056A437.
Meeting Summary Notes for the Public Meeting on the FY 2016 Proposed Fee Rule held on April 13, 2016.	ML16113A109.

List of Subjects

10 CFR Part 9

Administrative practice and procedure, Courts, Criminal penalties, Freedom of information, Government employees, Privacy, Reporting and recordkeeping requirements, Sunshine Act.

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR parts 9, 170, and 171.

PART 9—PUBLIC RECORDS

■ 1. The authority citation for part 9 continues to read as follows:

Authority: Atomic Energy Act of 1954, sec. 161 (42 U.S.C. 2201); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 44 U.S.C. 3504 note.

Subpart A also issued under 31 U.S.C. 9701.

Subpart B also issued under 5 U.S.C. 552a.

Subpart C also issued under 5 U.S.C. 552b.

■ 2. Revise § 9.201 to read as follows:

§ 9.201 Production or disclosure prohibited unless approved by appropriate NRC official.

(a) No employee of the NRC shall, in response to a demand of a court or other judicial or quasi-judicial authority, produce any material contained in the files of the NRC or disclose, through testimony or other means, any information relating to material contained in the files of the NRC, or disclose any information or produce any material acquired as part of the performance of that employee's official duties or official status without prior approval of the appropriate NRC official. When the demand is for material contained in the files of the Office of the Inspector General or for information acquired by an employee of that Office, the Inspector General is the appropriate NRC official. In all other cases, the General Counsel is the appropriate NRC official.

(b) Any NRC response to a demand of a court or other judicial or quasi-judicial authority that requires an employee of the NRC to expend more than 50 hours of official time shall be subject to hourly fees in accordance with 10 CFR 170.12(d).

PART 170—FEES FOR FACILITIES, MATERIALS IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 3. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 4. Revise § 170.1 to read as follows:

§ 170.1 Purpose.

The regulations in this part set out fees charged for licensing services, inspection services, and special projects rendered by the Nuclear Regulatory Commission as authorized under title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701(a)).

■ 5. In § 170.2, add paragraph (u) to read as follows:

§ 170.2 Scope.

* * * * *

(u) Submitting a Touhy request, pursuant to 10 CFR 9.200 through 9.204, as defined in § 170.3.

■ 6. In § 170.3, add, in alphabetical order, the definition for *Touhy request,* to read as follows:

§ 170.3 Definitions.

* * * * *

Touhy request means a request for NRC records or NRC testimony that is made pursuant to the NRC's regulations at 10 CFR 9.200 through 9.204.

* * * * *

■ 7. In § 170.11, revise paragraph (a)(1)(ii), remove paragraph (a)(1)(iii), and add paragraph (a)(13) to read as follows:

§ 170.11 Exemptions.

(a) * * *

(1) * * *

(ii) When the NRC, at the time the request/report is submitted, plans to use the information in response to an NRC request from the Office Director level or above to resolve an identified safety, safeguards, or environmental issue, or to assist the NRC in generic regulatory improvements or efforts (*e.g.,* rules, regulatory guides, regulations, policy statements, generic letters, or bulletins).

* * * * *

(13) All fee exemption requests must be submitted in writing to the Chief Financial Officer in accordance with § 170.5, and the Chief Financial Officer will grant or deny such requests in writing.

* * * * *

■ 8. In § 170.12, revise paragraphs (d)(1)(v) and (vi) and add paragraph (d)(1)(vii) to read as follows:

§ 170.12 Payment of fees.

* * * * *

(d) * * *

(1) * * *

(v) 10 CFR 50.71 final safety analysis reports;

(vi) Contested hearings on licensing actions directly involving U.S Government national security initiatives, as determined by the NRC; and

(vii) Responses to Touhy requests that require the NRC staff to expend more than 50 hours of official time. Fees for Touhy requests will be billed at the appropriate hourly rate established in § 170.20.

■ 9. Revise § 170.20 to read as follows:

§ 170.20 Average cost per professional staff-hour.

Fees for permits, licenses, amendments, renewals, special projects, 10 CFR part 55 re-qualification and replacement examinations and tests, other required reviews, approvals, and inspections under §§ 170.21 and 170.31 will be calculated using the professional staff-hour rate of $265 per hour.

■ 10. In § 170.21, in the table, revise fee categories J. and K. and add footnote 5 to read as follows:

§ 170.21 Schedule of fees for production or utilization facilities, review of standard referenced design approvals, special projects, inspections, and import and export licenses.

* * * * *

SCHEDULE OF FACILITY FEES

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
* * * * * *	*
J. Special Projects:	
Approvals and preapplication/licensing activities	Full Cost.
Inspections [3]	Full Cost.
Contested hearings on licensing actions directly related to U.S. Government national security initiatives	Full Cost.
Touhy requests [5]	Full Cost.
K. Import and export licenses:	
Licenses for the import and export only of production or utilization facilities or the export only of components for production or utilization facilities issued under 10 CFR part 110.	
1. Application for import or export of production or utilization facilities [4] (including reactors and other facilities) and exports of components requiring Commission and Executive Branch review, for example, actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,200.
2. Application for export of reactor and other components requiring Executive Branch review, for example, those actions under 10 CFR 110.41(a).	
Application—new license, or amendment; or license exemption request	$9,300.
3. Application for export of components requiring the assistance of the Executive Branch to obtain foreign government assurances.	

SCHEDULE OF FACILITY FEES—Continued

[See footnotes at end of table]

Facility categories and type of fees	Fees [1] [2]
Application—new license, or amendment; or license exemption request	$4,200.
4. Application for export of facility components and equipment not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,800.
5. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms or conditions or to the type of facility or component authorized for export and, therefore, do not require in-depth analysis or review or consultation with the Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment to license	$2,700.

[1] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under § 2.202 of this chapter or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under Title 10 of the *Code of Federal Regulations* (*e.g.,* 10 CFR 50.12, 10 CFR 73.5) and any other sections in effect now or in the future, regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form.

[2] Full cost fees will be determined based on the professional staff time and appropriate contractual support services expended. For applications currently on file and for which fees are determined based on the full cost expended for the review, the professional staff hours expended for the review of the application up to the effective date of the final rule will be determined at the professional rates in effect when the service was provided.

[3] Inspections covered by this schedule are both routine and non-routine safety and safeguards inspections performed by the NRC for the purpose of review or follow-up of a licensed program. Inspections are performed through the full term of the license to ensure that the authorized activities are being conducted in accordance with the Atomic Energy Act of 1954, as amended, other legislation, Commission regulations or orders, and the terms or conditions of the license. Non-routine inspections that result from third-party allegations will not be subject to fees.

[4] Imports only of major components for end-use at NRC-licensed reactors are authorized under NRC general import license in 10 CFR 110.27.

[5] Full cost fees will be assessed once NRC work on a Touhy request exceeds 50 hours, in accordance with § 170.12(d).

■ 11. In § 170.31, revise the table to read as follows:

§ 170.31 Schedule of fees for materials licenses and other regulatory services, including inspections, and import and export licenses.

* * * * *

SCHEDULE OF MATERIALS FEES

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	Full Cost.
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210].	Full Cost.
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	Full Cost.
(b) Gas centrifuge enrichment demonstration facilities	Full Cost.
(c) Others, including hot cell facilities	Full Cost.
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200].	Full Cost.
C. Licenses for possession and use of special nuclear material of less than a critical mass as defined in § 70.4 in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[4]	
Application [Program Code(s): 22140]	$1,200.
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[4]	
Application [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310].	$2,500.
E. Licenses or certificates for construction and operation of a uranium enrichment facility [Program Code(s): 21200]	Full Cost.
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter.[4] [Program Code(s): 22155].	Full Cost.
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code(s): 11400].	Full Cost.
(2) Licenses for possession and use of source material in recovery operations such as milling, *in-situ* recovery, heap-leaching, ore buying stations, ion-exchange facilities, and in processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	Full Cost.
(b) Basic *In Situ* Recovery facilities [Program Code(s): 11500]	Full Cost.
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	Full Cost.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	Fee[2][3]
(d) *In Situ* Recovery Resin facilities [Program Code(s): 11550]	Full Cost.
(e) Resin Toll Milling facilities [Program Code(s): 11555]	Full Cost.
(f) Other facilities [Program Code(s): 11700]	Full Cost.
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000].	Full Cost.
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010].	Full Cost.
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820].	Full Cost.
B. Licenses which authorize the possession, use, and/or installation of source material for shielding.[6][7][8]	
Application [Program Code(s): 11210]	$1,170.
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter.	
Application [Program Code(s): 11240]	$2,700.
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter.	
Application [Program Codes(s): 11230, 11231]	$2,600.
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution.	
Application [Program Code(s): 11710]	$2,500.
F. All other source material licenses.	
Application [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	$2,500.
3. Byproduct material:	
A. Licenses of broad scope for the possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03211, 03212, 03213]	$12,400.
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution.	
Application [Program Code(s): 03214, 03215, 22135, 22162]	$3,400.
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter that authorize the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 170.11(a)(4).	
Application [Program Code(s): 02500, 02511, 02513]	$5,000.
D. [Reserved]	N/A.
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units).	
Application [Program Code(s): 03510, 03520]	$3,100.
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03511]	$6,200.
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials where the source is not exposed for irradiation purposes.	
Application [Program Code(s): 03521]	$59,200.
H. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter. The category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03254, 03255, 03257]	$6,300.
I. Licenses issued under Subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter.	
Application [Program Code(s): 03250, 03251, 03252, 03253, 03256]	$10,500.
J. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03240, 03241, 03243]	$1,900.
K. Licenses issued under Subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter. This category does not include specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter.	
Application [Program Code(s): 03242, 03244]	$1,100.
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5.	
(1) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20.	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees[1]	Fee[2][3]
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: more than 20.	
Application [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613, 04610, 04611, 04612, 04613, 04614, 04615, 04616, 04617, 04618, 04619, 04620, 04621, 04622, 04623].	$5,200.
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution.	
Application [Program Code(s): 03620]	$4,800.
N. Licenses that authorize services for other licensees, except:	
(1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and	
(2) Licenses that authorize waste disposal services are subject to the fees specified in fee Categories 4.A., 4.B., and 4.C.	
Application [Program Code(s): 03219, 03225, 03226]	$6,100.
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations.	
Application [Program Code(s): 03310, 03320]	$3,000.
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[9]	
Application [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03130, 03140, 03220, 03221, 03222, 03800, 03810, 22130].	$2,500.
Q. Registration of a device(s) generally licensed under part 31 of this chapter.	
Registration	$600.
R. Possession of items or products containing radium-226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section.[5]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified.	
Application [Program Code(s): 02700]	$2,400.
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4), or (5).	
Application [Program Code(s): 02710]	$2,400.
S. Licenses for production of accelerator-produced radionuclides.	
Application [Program Code(s): 03210]	$13,600.
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material. [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101].	Full Cost.
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03234]	$6,600.
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material.	
Application [Program Code(s): 03232]	$4,800.
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies.	
Application [Program Code(s): 03110, 03111, 03112]	$4,400.
B. Licenses for possession and use of byproduct material for field flooding tracer studies.	
Licensing [Program Code(s): 03113]	Full Cost.
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material.	
Application [Program Code(s): 03218]	$21,100.
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices.	
Application [Program Code(s): 02300, 02310]	$10,600.
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[10]	
Application [Program Code(s): 02110]	$8,300.
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices.	
Application [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$4,300.
8. Civil defense:	

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities.	
Application [Program Code(s): 03710]	$2,400.
9. Device, product, or sealed source safety evaluation:	
A. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution.	
Application—each device	$5,200.
B. Safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices.	
Application—each device	$8,600.
C. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution.	
Application—each source	$5,000.
D. Safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel.	
Application—each source	$1,010.
10. Transportation of radioactive material:	
A. Evaluation of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	Full Cost.
2. Other Casks	Full Cost.
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators.	
Application	$4,000.
Inspections	Full Cost.
2. Users.	
Application	$4,000.
Inspections	Full Cost.
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices).	Full Cost.
11. Review of standardized spent fuel facilities	Full Cost.
12. Special projects:	
Including approvals, pre-application/licensing activities, and inspections.	
Application [Program Code: 25110]	Full Cost.
13. A. Spent fuel storage cask Certificate of Compliance	Full Cost.
B. Inspections related to storage of spent fuel under § 72.210 of this chapter	Full Cost.
14. A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including MMLs. Application [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200].	Full Cost.
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, regardless of whether or not the sites have been previously licensed.	Full Cost.
15. Import and Export licenses:	
Licenses issued under part 110 of this chapter for the import and export only of special nuclear material, source material, tritium and other byproduct material, and the export only of heavy water, or nuclear grade graphite (fee categories 15.A. through 15.E.).	
A. Application for export or import of nuclear materials, including radioactive waste requiring Commission and Executive Branch review, for example, those actions under 10 CFR 110.40(b).	
Application—new license, or amendment; or license exemption request	$17,200.
B. Application for export or import of nuclear material, including radioactive waste, requiring Executive Branch review, but not Commission review. This category includes applications for the export and import of radioactive waste and requires NRC to consult with domestic host state authorities (*i.e.*, Low-Level Radioactive Waste Compact Commission, the U.S. Environmental Protection Agency, etc.).	
Application—new license, or amendment; or license exemption request	$9,300.
C. Application for export of nuclear material, for example, routine reloads of low enriched uranium reactor fuel and/or natural uranium source material requiring the assistance of the Executive Branch to obtain foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,200.
D. Application for export or import of nuclear material not requiring Commission or Executive Branch review, or obtaining foreign government assurances.	
Application—new license, or amendment; or license exemption request	$4,800.
E. Minor amendment of any active export or import license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign government authorities.	
Minor amendment	$1,300.
Licenses issued under part 110 of this chapter for the import and export only of Category 1 and Category 2 quantities of radioactive material listed in Appendix P to part 110 of this chapter (fee categories 15.F. through 15.R.).	
Category 1 (Appendix P, 10 CFR Part 110) Exports:	
F. Application for export of Appendix P Category 1 materials requiring Commission review (*e.g.*, exceptional circumstance review under 10 CFR 110.42(e)(4)) and to obtain government-to-government consent for this process. For additional consent see 15.I.).	
Application—new license, or amendment; or license exemption request	$14,600.

SCHEDULE OF MATERIALS FEES—Continued

[See footnotes at end of table]

Category of materials licenses and type of fees [1]	Fee [2] [3]
G. Application for export of Appendix P Category 1 materials requiring Executive Branch review and to obtain government-to-government consent for this process. For additional consents see 15.I.	
Application—new license, or amendment; or license exemption request	$8,000.
H. Application for export of Appendix P Category 1 materials and to obtain one government-to-government consent for this process. For additional consents see 15.I.	
Application—new license, or amendment; or license exemption request	$5,300.
I. Requests for each additional government-to-government consent in support of an export license application or active export license.	
Application—new license, or amendment; or license exemption request	$270.
Category 2 (Appendix P, 10 CFR Part 110) Exports:	
J. Application for export of Appendix P Category 2 materials requiring Commission review (*e.g.*, exceptional circumstance review under 10 CFR 110.42(e)(4)).	
Application—new license, or amendment; or license exemption request	$14,600.
K. Applications for export of Appendix P Category 2 materials requiring Executive Branch review.	
Application—new license, or amendment; or license exemption request	$8,000.
L. Application for the export of Category 2 materials.	
Application—new license, or amendment; or license exemption request	$4,000.
M. [Reserved]	N/A.
N. [Reserved]	N/A.
O. [Reserved]	N/A.
P. [Reserved]	N/A.
Q. [Reserved]	N/A.
Minor Amendments (Category 1 and 2, Appendix P, 10 CFR Part 110, Export):	
R. Minor amendment of any active export license, for example, to extend the expiration date, change domestic information, or make other revisions which do not involve any substantive changes to license terms and conditions or to the type/quantity/chemical composition of the material authorized for export and, therefore, do not require in-depth analysis, review, or consultations with other Executive Branch, U.S. host state, or foreign authorities.	
Minor amendment	$1,300.
16. Reciprocity:	
Agreement State licensees who conduct activities under the reciprocity provisions of 10 CFR 150.20.	
Application	$1,900.
17. Master materials licenses of broad scope issued to Government agencies.	
Application [Program Code(s): 03614]	Full Cost.
18. Department of Energy.	
A. Certificates of Compliance. Evaluation of casks, packages, and shipping containers (including spent fuel, high-level waste, and other casks, and plutonium air packages).	Full Cost.
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	Full Cost.

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[1] *Types of fees*—Separate charges, as shown in the schedule, will be assessed for pre-application consultations and reviews; applications for new licenses, approvals, or license terminations; possession-only licenses; issuances of new licenses and approvals; certain amendments and renewals to existing licenses and approvals; safety evaluations of sealed sources and devices; generally licensed device registrations; and certain inspections. The following guidelines apply to these charges:

(a) *Application and registration fees.* Applications for new materials licenses and export and import licenses; applications to reinstate expired, terminated, or inactive licenses, except those subject to fees assessed at full costs; applications filed by Agreement State licensees to register under the general license provisions of 10 CFR 150.20; and applications for amendments to materials licenses that would place the license in a higher fee category or add a new fee category must be accompanied by the prescribed application fee for each category.

(1) Applications for licenses covering more than one fee category of special nuclear material or source material must be accompanied by the prescribed application fee for the highest fee category.

(2) Applications for new licenses that cover both byproduct material and special nuclear material in sealed sources for use in gauging devices will pay the appropriate application fee for fee category 1.C. only.

(b) *Licensing fees.* Fees for reviews of applications for new licenses, renewals, and amendments to existing licenses, pre-application consultations and other documents submitted to the NRC for review, and project manager time for fee categories subject to full cost fees are due upon notification by the Commission in accordance with § 170.12(b).

(c) *Amendment fees.* Applications for amendments to export and import licenses must be accompanied by the prescribed amendment fee for each license affected. An application for an amendment to an export or import license or approval classified in more than one fee category must be accompanied by the prescribed amendment fee for the category affected by the amendment, unless the amendment is applicable to two or more fee categories, in which case the amendment fee for the highest fee category would apply.

(d) *Inspection fees.* Inspections resulting from investigations conducted by the Office of Investigations and nonroutine inspections that result from third-party allegations are not subject to fees. Inspection fees are due upon notification by the Commission in accordance with § 170.12(c).

(e) *Generally licensed device registrations under 10 CFR 31.5.* Submittals of registration information must be accompanied by the prescribed fee.

[2] Fees will not be charged for orders related to civil penalties or other civil sanctions issued by the Commission under 10 CFR 2.202 or for amendments resulting specifically from the requirements of these orders. For orders unrelated to civil penalties or other civil sanctions, fees will be charged for any resulting licensee-specific activities not otherwise exempted from fees under this chapter. Fees will be charged for approvals issued under a specific exemption provision of the Commission's regulations under title 10 of the *Code of Federal Regulations* (*e.g.*, 10 CFR 30.11, 40.14, 70.14, 73.5, and any other sections in effect now or in the future), regardless of whether the approval is in the form of a license amendment, letter of approval, safety evaluation report, or other form. In addition to the fee shown, an applicant may be assessed an additional fee for sealed source and device evaluations as shown in fee categories 9.A. through 9.D.

[3] Full cost fees will be determined based on the professional staff time multiplied by the appropriate professional hourly rate established in § 170.20 in effect when the service is provided, and the appropriate contractual support services expended.

[4] Licensees paying fees under categories 1.A., 1.B., and 1.E. are not subject to fees under categories 1.C., 1.D., and 1.F. for sealed sources authorized in the same license, except for an application that deals only with the sealed sources authorized by the license.

[5] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[6] Licensees subject to fees under fee categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[7] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[8] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[9] Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

[10] Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 12. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

■ 13. In § 171.15, revise paragraph (b)(1), the introductory text of paragraph (b)(2), paragraph (c)(1), the introductory text of paragraphs (c)(2) and (d)(1), and paragraphs (d)(2) and (d)(3), and revise paragraph (f) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(b)(1) The FY 2016 annual fee for each operating power reactor which must be collected by September 30, 2016, is $4,856,000.

(2) The FY 2016 annual fees are comprised of a base annual fee for power reactors licensed to operate, a base spent fuel storage/reactor decommissioning annual fee, and associated additional charges (fee-relief adjustment). The activities comprising the spent storage/reactor decommissioning base annual fee are shown in paragraphs (c)(2)(i) and (ii) of this section. The activities comprising the FY 2016 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2016 base annual fee for operating power reactors are as follows:

* * * * *

(c)(1) The FY 2016 annual fee for each power reactor holding a 10 CFR part 50 license that is in a decommissioning or possession-only status and has spent fuel onsite, and for each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is $197,000.

(2) The FY 2016 annual fee is comprised of a base spent fuel storage/reactor decommissioning annual fee (which is also included in the operating power reactor annual fee shown in paragraph (b) of this section) and a fee-relief adjustment. The activities comprising the FY 2016 fee-relief adjustment are shown in paragraph (d)(1) of this section. The activities comprising the FY 2016 spent fuel storage/reactor decommissioning rebaselined annual fee are:

* * * * *

(d)(1) The fee-relief adjustment allocated to annual fees includes a surcharge for the activities listed in paragraph (d)(1)(i) of this section, plus the amount remaining after total budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section are reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (d)(1)(ii) and (iii) of this section for a given fiscal year, annual fees will be reduced. The activities comprising the FY 2016 fee-relief adjustment are as follows:

* * * * *

(2) The total FY 2016 fee-relief adjustment and LLW surcharge allocated to the operating power reactor class of licenses is a $960,300 fee-relief adjustment and LLW surcharge, not including the amount allocated to the spent fuel storage/reactor decommissioning class. The FY 2016 operating power reactor fee-relief adjustment to be assessed to each operating power reactor is approximately a $9,603 fee-relief adjustment and LLW surcharge. This amount is calculated by dividing the total operating power reactor fee-relief adjustment and LLW surcharge, $960,300, by the number of operating power reactors (100).

(3) The FY 2016 fee-relief adjustment allocated to the spent fuel storage/reactor decommissioning class of licenses is a −$2,400 fee-relief assessment. The FY 2016 spent fuel storage/reactor decommissioning fee-relief adjustment to be assessed to each operating power reactor, each power reactor in decommissioning or possession-only status that has spent fuel onsite, and to each independent spent fuel storage 10 CFR part 72 licensee who does not hold a 10 CFR part 50 license, is a −$20 fee-relief assessment. This amount is calculated by dividing the total fee-relief adjustment costs allocated to this class by the total number of power reactor licenses, except those that permanently ceased operations and have no fuel onsite, and 10 CFR part 72 licensees who do not hold a 10 CFR part 50 license.

* * * * *

(f) The FY 2016 annual fees for licensees authorized to operate a research or test (nonpower) reactor licensed under 10 CFR part 50, unless the reactor is exempted from fees under § 171.11(a), are as follows:

Research reactor	$81,500
Test reactor	81,500

■ 14. In § 171.16, revise paragraphs (c) and (d) and the introductory text of paragraph (e) to read as follows:

§ 171.16 Annual fees: Materials licensees, holders of certificates of compliance, holders of sealed source and device registrations, holders of quality assurance program approvals, and government agencies licensed by the NRC.

* * * * *

(c) A licensee who is required to pay an annual fee under this section, in addition to 10 CFR part 72 licenses, may qualify as a small entity. If a licensee qualifies as a small entity and provides the Commission with the proper certification along with its annual fee payment, the licensee may pay reduced annual fees as shown in the following table. Failure to file a small entity certification in a timely manner could result in the receipt of a delinquent invoice requesting the outstanding balance due and/or denial of any refund that might otherwise be due. The small entity fees are as follows:

	Maximum annual fee per licensed category
Small Businesses Not Engaged in Manufacturing (Average gross receipts over last 3 completed fiscal years):	
$485,000 to $7 million	$3,400
Less than $485,000	700
Small Not-For-Profit Organizations (Annual Gross Receipts):	
$485,000 to $7 million	3,400
Less than $485,000	700
Manufacturing Entities that Have An Average of 500 Employees or Fewer:	
35 to 500 employees	3,400
Fewer than 35 employees	700
Small Governmental Jurisdictions (Including publicly supported educational institutions) (Population):	
20,000 to 49,999	3,400
Fewer than 20,000	700
Educational Institutions that are not State or Publicly Supported, and have 500 Employees or Fewer:	
35 to 500 employees	3,400
Fewer than 35 employees	700

(d) The FY 2016 annual fees are comprised of a base annual fee and an allocation for fee-relief adjustment. The activities comprising the FY 2016 fee-relief adjustment are shown for convenience in paragraph (e) of this section. The FY 2016 annual fees for materials licensees and holders of certificates, registrations, or approvals subject to fees under this section are shown in the following table:

Schedule of Materials Annual fees and Fees for Government Agencies Licensed by NRC

[See footnotes at end of table]

Category of materials licenses	Annual fees[1 2 3]
1. Special nuclear material:	
A. (1) Licenses for possession and use of U–235 or plutonium for fuel fabrication activities.	
(a) Strategic Special Nuclear Material (High Enriched Uranium) [Program Code(s): 21130]	$7,867,000
(b) Low Enriched Uranium in Dispersible Form Used for Fabrication of Power Reactor Fuel [Program Code(s): 21210]	$2,736,000
(2) All other special nuclear materials licenses not included in Category 1.A.(1) which are licensed for fuel cycle activities.	
(a) Facilities with limited operations [Program Code(s): 21310, 21320]	$0
(b) Gas centrifuge enrichment demonstration facilities	$1,539,000
(c) Others, including hot cell facilities	$770,000
B. Licenses for receipt and storage of spent fuel and reactor-related Greater than Class C (GTCC) waste at an independent spent fuel storage installation (ISFSI) [Program Code(s): 23200]	N/A[11]
C. Licenses for possession and use of special nuclear material of less than a critical mass, as defined in § 70.4 of this chapter, in sealed sources contained in devices used in industrial measuring systems, including x-ray fluorescence analyzers.[15] [Program Code(s): 22140]	$3,100
D. All other special nuclear material licenses, except licenses authorizing special nuclear material in sealed or unsealed form in combination that would constitute a critical mass, as defined in § 70.4 of this chapter, for which the licensee shall pay the same fees as those under Category 1.A.[15] [Program Code(s): 22110, 22111, 22120, 22131, 22136, 22150, 22151, 22161, 22170, 23100, 23300, 23310]	$8,100
E. Licenses or certificates for the operation of a uranium enrichment facility [Program Code(s): 21200]	$3,762,000
F. For special nuclear materials licenses in sealed or unsealed form of greater than a critical mass as defined in § 70.4 of this chapter.[15] [Program Code: 22155]	$6,800
2. Source material:	
A. (1) Licenses for possession and use of source material for refining uranium mill concentrates to uranium hexafluoride or for deconverting uranium hexafluoride in the production of uranium oxides for disposal. [Program Code: 11400]	$1,625,000
(2) Licenses for possession and use of source material in recovery operations such as milling, in-situ recovery, heap-leaching, ore buying stations, ion-exchange facilities and in-processing of ores containing source material for extraction of metals other than uranium or thorium, including licenses authorizing the possession of byproduct waste material (tailings) from source material recovery operations, as well as licenses authorizing the possession and maintenance of a facility in a standby mode.	
(a) Conventional and Heap Leach facilities [Program Code(s): 11100]	$38,900
(b) Basic *In Situ* Recovery facilities [Program Code(s): 11500]	$49,300
(c) Expanded *In Situ* Recovery facilities [Program Code(s): 11510]	$55,800
(d) *In Situ* Recovery Resin facilities [Program Code(s): 11550]	N/A[5]
(e) Resin Toll Milling facilities [Program Code(s): 11555]	N/A[5]
(3) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal, except those licenses subject to the fees in Category 2.A.(2) or Category 2.A.(4) [Program Code(s): 11600, 12000]	N/A[5]
(4) Licenses that authorize the receipt of byproduct material, as defined in Section 11e.(2) of the Atomic Energy Act, from other persons for possession and disposal incidental to the disposal of the uranium waste tailings generated by the licensee's milling operations, except those licenses subject to the fees in Category 2.A.(2) [Program Code(s): 12010]	$22,000

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
(5) Licenses that authorize the possession of source material related to removal of contaminants (source material) from drinking water [Program Code(s): 11820]	$6,500
B. Licenses that authorize possession, use, and/or installation of source material for shielding.[16] [17] [18] [Program Code: 11210]	$3,600
C. Licenses to distribute items containing source material to persons exempt from the licensing requirements of part 40 of this chapter [Program Code: 11240]	$6,800
D. Licenses to distribute source material to persons generally licensed under part 40 of this chapter [Program Code(s): 11230 and 11231]	$6,600
E. Licenses for possession and use of source material for processing or manufacturing of products or materials containing source material for commercial distribution [Program Code: 11710]	$8,300
F. All other source material licenses [Program Code(s): 11200, 11220, 11221, 11300, 11800, 11810]	$7,700
3. Byproduct material:	
A. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03211, 03212, 03213]	$30,500
B. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for processing or manufacturing of items containing byproduct material for commercial distribution [Program Code(s): 03214, 03215, 22135, 22162]	$12,800
C. Licenses issued under §§ 32.72 and/or 32.74 of this chapter authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits, and/or sources and devices containing byproduct material. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when included on the same license. This category does not apply to licenses issued to nonprofit educational institutions whose processing or manufacturing is exempt under § 171.11(a)(1). [Program Code(s): 02500, 02511, 02513]	$13,500
D. [Reserved]	N/A.[5]
E. Licenses for possession and use of byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) [Program Code(s): 03510, 03520]	$10,000
F. Licenses for possession and use of less than 10,000 curies of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03511]	$12,200
G. Licenses for possession and use of 10,000 curies or more of byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes [Program Code(s): 03521]	$107,900
H. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material that require device review to persons exempt from the licensing requirements of part 30 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03254, 03255]	$12,300
I. Licenses issued under subpart A of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require device evaluation to persons exempt from the licensing requirements of part 30 of this chapter, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from the licensing requirements of part 30 of this chapter [Program Code(s): 03250, 03251, 03252, 03253, 03256]	$18,200
J. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material that require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03240, 03241, 03243]	$4,700
K. Licenses issued under subpart B of part 32 of this chapter to distribute items containing byproduct material or quantities of byproduct material that do not require sealed source and/or device review to persons generally licensed under part 31 of this chapter, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed under part 31 of this chapter [Program Code(s): 03242, 03244]	$3,500
L. Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 1–5. [Program Code(s): 01100, 01110, 01120, 03610, 03611, 03612, 03613]	$17,700
(1) Licenses of broad scope for possession and use of product material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: 6–20. [Program Code(s): 04610, 04612, 04614, 04616, 04618, 04620, 04622]	$23,800
(2) Licenses of broad scope for possession and use of byproduct material issued under parts 30 and 33 of this chapter for research and development that do not authorize commercial distribution. Number of locations of use: More than 20. [Program Code(s): 04611, 04613, 04615, 04617, 04619, 04621, 04623]	$29,700
M. Other licenses for possession and use of byproduct material issued under part 30 of this chapter for research and development that do not authorize commercial distribution [Program Code(s): 03620]	$12,300
N. Licenses that authorize services for other licensees, except: (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee Category 3.P.; and (2) Licenses that authorize waste disposal services are subject to the fees specified in fee categories 4.A., 4.B., and 4.C. [Program Code(s): 03219, 03225, 03226]	$21,100
O. Licenses for possession and use of byproduct material issued under part 34 of this chapter for industrial radiography operations. This category also includes the possession and use of source material for shielding authorized under part 40 of this chapter when authorized on the same license [Program Code(s): 03310, 03320]	$26,000
P. All other specific byproduct material licenses, except those in Categories 4.A. through 9.D.[19] [Program Code(s): 02400, 02410, 03120, 03121, 03122, 03123, 03124, 03140, 03130, 03220, 03221, 03222, 03800, 03810, 22130]	$7,900

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1] [2] [3]
Q. Registration of devices generally licensed under part 31 of this chapter	N/A.[13]
R. Possession of items or products containing radium–226 identified in 10 CFR 31.12 which exceed the number of items or limits specified in that section:[14]	
1. Possession of quantities exceeding the number of items or limits in 10 CFR 31.12(a)(4), or (5) but less than or equal to 10 times the number of items or limits specified [Program Code(s): 02700]	$7,900
2. Possession of quantities exceeding 10 times the number of items or limits specified in 10 CFR 31.12(a)(4) or (5) [Program Code(s): 02710]	$8,400
S. Licenses for production of accelerator-produced radionuclides [Program Code(s): 03210]	$30,800
4. Waste disposal and processing:	
A. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of contingency storage or commercial land disposal by the licensee; or licenses authorizing contingency storage of low-level radioactive waste at the site of nuclear power reactors; or licenses for receipt of waste from other persons for incineration or other treatment, packaging of resulting waste and residues, and transfer of packages to another person authorized to receive or dispose of waste material [Program Code(s): 03231, 03233, 03235, 03236, 06100, 06101]	N/A[5]
B. Licenses specifically authorizing the receipt of waste byproduct material, source material, or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03234]	$21,900
C. Licenses specifically authorizing the receipt of prepackaged waste byproduct material, source material, or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material [Program Code(s): 03232]	$14,800
5. Well logging:	
A. Licenses for possession and use of byproduct material, source material, and/or special nuclear material for well logging, well surveys, and tracer studies other than field flooding tracer studies [Program Code(s): 03110, 03111, 03112]	$14,500
B. Licenses for possession and use of byproduct material for field flooding tracer studies. [Program Code(s): 03113]	N/A[5]
6. Nuclear laundries:	
A. Licenses for commercial collection and laundry of items contaminated with byproduct material, source material, or special nuclear material [Program Code(s): 03218]	$0
7. Medical licenses:	
A. Licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, or special nuclear material in sealed sources contained in gamma stereotactic radiosurgery units, teletherapy devices, or similar beam therapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. [Program Code(s): 02300, 02310]	$24,700
B. Licenses of broad scope issued to medical institutions or two or more physicians under parts 30, 33, 35, 40, and 70 of this chapter authorizing research and development, including human use of byproduct material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [Program Code(s): 02110]	$37,400
C. Other licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license.[9] [20] [Program Code(s): 02120, 02121, 02200, 02201, 02210, 02220, 02230, 02231, 02240, 22160]	$13,200
8. Civil defense:	
A. Licenses for possession and use of byproduct material, source material, or special nuclear material for civil defense activities [Program Code(s): 03710]	$7,900
9. Device, product, or sealed source safety evaluation:	
A. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material, except reactor fuel devices, for commercial distribution	$7,900
B. Registrations issued for the safety evaluation of devices or products containing byproduct material, source material, or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices	$13,000
C. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, except reactor fuel, for commercial distribution	$7,600
D. Registrations issued for the safety evaluation of sealed sources containing byproduct material, source material, or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel	$1,500
10. Transportation of radioactive material:	
A. Certificates of Compliance or other package approvals issued for design of casks, packages, and shipping containers.	
1. Spent Fuel, High-Level Waste, and plutonium air packages	N/A[6]
2. Other Casks	N/A[6]
B. Quality assurance program approvals issued under part 71 of this chapter.	
1. Users and Fabricators	N/A[6]
2. Users	N/A[6]
C. Evaluation of security plans, route approvals, route surveys, and transportation security devices (including immobilization devices)	N/A[6]
11. Standardized spent fuel facilities	N/A.[6]
12. Special Projects [Program Code(s): 25110]	N/A[6]
13. A. Spent fuel storage cask Certificate of Compliance	N/A[6]

SCHEDULE OF MATERIALS ANNUAL FEES AND FEES FOR GOVERNMENT AGENCIES LICENSED BY NRC—Continued

[See footnotes at end of table]

Category of materials licenses	Annual fees [1][2][3]
B. General licenses for storage of spent fuel under 10 CFR 72.210	N/A[12]
14. Decommissioning/Reclamation:	
A. Byproduct, source, or special nuclear material licenses and other approvals authorizing decommissioning, decontamination, reclamation, or site restoration activities under parts 30, 40, 70, 72, and 76 of this chapter, including master materials licenses (MMLs) [Program Code(s): 3900, 11900, 21135, 21215, 21240, 21325, 22200]	N/A[7]
B. Site-specific decommissioning activities associated with unlicensed sites, including MMLs, whether or not the sites have been previously licensed	N/A[7]
15. Import and Export licenses	N/A[8]
16. Reciprocity	N/A[8]
17. Master materials licenses of broad scope issued to Government agencies [Program Code(s): 03614]	$343,000
18. Department of Energy:	
A. Certificates of Compliance	$1,366,000[10]
B. Uranium Mill Tailings Radiation Control Act (UMTRCA) activities	$545,000

[1] Annual fees will be assessed based on whether a licensee held a valid license with the NRC authorizing possession and use of radioactive material during the current FY. The annual fee is waived for those materials licenses and holders of certificates, registrations, and approvals who either filed for termination of their licenses or approvals or filed for possession only/storage licenses before October 1, 2015, and permanently ceased licensed activities entirely before this date. Annual fees for licensees who filed for termination of a license, downgrade of a license, or for a possession-only license during the FY and for new licenses issued during the FY will be prorated in accordance with the provisions of § 171.17. If a person holds more than one license, certificate, registration, or approval, the annual fee(s) will be assessed for each license, certificate, registration, or approval held by that person. For licenses that authorize more than one activity on a single license (*e.g.,* human use and irradiator activities), annual fees will be assessed for each category applicable to the license.

[2] Payment of the prescribed annual fee does not automatically renew the license, certificate, registration, or approval for which the fee is paid. Renewal applications must be filed in accordance with the requirements of parts 30, 40, 70, 71, 72, or 76 of this chapter.

[3] Each FY, fees for these materials licenses will be calculated and assessed in accordance with § 171.13 and will be published in the **Federal Register** for notice and comment.

[4] Other facilities include licenses for extraction of metals, heavy metals, and rare earths.

[5] There are no existing NRC licenses in these fee categories. If NRC issues a license for these categories, the Commission will consider establishing an annual fee for this type of license.

[6] Standardized spent fuel facilities, 10 CFR parts 71 and 72 Certificates of Compliance and related Quality Assurance program approvals, and special reviews, such as topical reports, are not assessed an annual fee because the generic costs of regulating these activities are primarily attributable to users of the designs, certificates, and topical reports.

[7] Licensees in this category are not assessed an annual fee because they are charged an annual fee in other categories while they are licensed to operate.

[8] No annual fee is charged because it is not practical to administer due to the relatively short life or temporary nature of the license.

[9] Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions that also hold nuclear medicine licenses under fee categories 7.B. or 7.C.

[10] This includes Certificates of Compliance issued to the U.S. Department of Energy that are not funded from the Nuclear Waste Fund.

[11] See § 171.15(c).

[12] See § 171.15(c).

[13] No annual fee is charged for this category because the cost of the general license registration program applicable to licenses in this category will be recovered through 10 CFR part 170 fees.

[14] Persons who possess radium sources that are used for operational purposes in another fee category are not also subject to the fees in this category. (This exception does not apply if the radium sources are possessed for storage only.)

[15] Licensees paying annual fees under category 1.A., 1.B., and 1.E. are not subject to the annual fees for categories 1.C., 1.D., and 1.F. for sealed sources authorized in the license.

[16] Licensees subject to fees under categories 1.A., 1.B., 1.E., or 2.A. must pay the largest applicable fee and are not subject to additional fees listed in this table.

[17] Licensees paying fees under 3.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[18] Licensees paying fees under 7.C. are not subject to fees under 2.B. for possession and shielding authorized on the same license.

[19] Licensees paying fees under 3.N. are not subject to paying fees under 3.P. for calibration or leak testing services authorized on the same license.

[20] Licensees paying fees under 7.B. are not subject to paying fees under 7.C. for broad scope license licenses issued under parts 30, 35, 40, and 70 of this chapter for human use of byproduct material, source material, and/or special nuclear material, except licenses for byproduct material, source material, or special nuclear material in sealed sources contained in teletherapy devices authorized on the same license.

(e) The fee-relief adjustment allocated to annual fees includes the budgeted resources for the activities listed in paragraph (e)(1) of this section, plus the total budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section, as reduced by the appropriations the NRC receives for these types of activities. If the NRC's appropriations for these types of activities are greater than the budgeted resources for the activities included in paragraphs (e)(2) and (3) of this section for a given fiscal year, a negative fee-relief adjustment (or annual fee reduction) will be allocated to annual fees. The activities comprising the FY 2016 fee-relief adjustment are as follows:

* * * * *

Dated at Rockville, Maryland, this 7th day of June, 2016.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2016–14490 Filed 6–23–16; 8:45 am]

BILLING CODE 7590–01–P

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Docket No. 2016–04]

Civil Monetary Penalties Inflation Adjustments

AGENCY: Federal Election Commission.

ACTION: Interim final rules.

SUMMARY: As required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the Federal Election Commission is adopting interim final rules to adjust for inflation

the civil monetary penalties established under the Federal Election Campaign Act, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. The civil monetary penalties being adjusted are those negotiated by the Commission or imposed by a court for certain statutory violations; and those imposed by the Commission for late filing of or failure to file certain reports required by the Federal Election Campaign Act. The adjusted civil monetary penalties are calculated according to a statutory formula and the adjusted amounts will apply to penalties assessed after the effective date of these rules.

DATES: The interim final rules are effective on August 1, 2016. Comments must be submitted on or before July 25, 2016.

ADDRESSES: All comments must be in writing. Commenters are encouraged to submit comments electronically via the Commission's Web site at *http://www.fec.gov/fosers,* reference REG 2016–02, or by email to *InflationAdjustment@fec.gov.* Alternatively, commenters may submit comments in paper form, addressed to the Federal Election Commission, Attn.: Neven F. Stipanovic, Acting Assistant General Counsel, 999 E Street NW., Washington, DC 20463.

Each commenter must provide, at a minimum, his or her first name, last name, city, state, and zip code. All properly submitted comments, including attachments, will become part of the public record, and the Commission will make comments available for public viewing on the Commission's Web site and in the Commission's Public Records Office. Accordingly, commenters should not provide in their comments any information that they do not wish to make public, such as a home street address, personal email address, date of birth, phone number, social security number, or driver's license number, or any information that is restricted from disclosure, such as trade secrets or commercial or financial information that is privileged or confidential.

FOR FURTHER INFORMATION CONTACT: Mr. Neven F. Stipanovic, Acting Assistant General Counsel, or Ms. Esther D. Gyory, Attorney, Office of General Counsel, 999 E Street NW., Washington, DC 20463, (202) 694–1650 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the "2015 Act") [1] amended the Federal Civil Penalties Inflation Adjustment Act of 1990 (the "Inflation Adjustment Act") [2] to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. Prior to the 2015 Act, the Inflation Adjustment Act required federal agencies, including the Commission, to adjust for inflation the civil monetary penalties within their jurisdiction at least once every four years according to detailed formulas. The Commission last adjusted its civil monetary penalties for inflation in 2013. Civil Monetary Penalties Inflation Adjustments, 78 FR 44419 (July 24, 2013). As amended by the 2015 Act, the Inflation Adjustment Act now requires federal agencies to make a one-time "catch-up" adjustment to civil monetary penalties, which must take effect no later than August 1, 2016, and to adjust civil monetary penalties annually thereafter using newly prescribed formulas.[3]

The Inflation Adjustment Act defines a civil monetary penalty as "any penalty, fine, or other sanction" that (1) "is for a specific amount" or "has a maximum amount" under federal law; and (2) that a federal agency assesses or enforces "pursuant to an administrative proceeding or a civil action" in federal court.[4] Under the Federal Election Campaign Act, 52 U.S.C. 30101–46 ("FECA"), the Commission may assess and enforce civil monetary penalties for violations of FECA, the Presidential Election Campaign Fund Act, 26 U.S.C. 9001–13, and the Presidential Primary Matching Payment Account Act, 26 U.S.C. 9031–42. As required by the Inflation Adjustment Act, and pursuant to guidance issued by the Office of Management and Budget,[5] the Commission is now making a one-time catch-up adjustment to the civil monetary penalties within its jurisdiction, according to the prescribed formulas. The Commission will implement annual inflation adjustments beginning in January 2017.

Administrative Procedure Act

As required by the 2015 Act, the Commission is issuing these rules as interim final rules. The interim final rules will take effect on August 1, 2016, the date by which Congress mandated that agencies make their catch-up adjustment effective.

The Administrative Procedure Act's ("APA's") notice-and-comment requirement does not apply here because Congress specifically directed agencies to make adjustments to civil monetary penalties through an interim final rule.[6] Nonetheless, the public may comment on these interim final rules, and the Commission may address any comments received in a later rulemaking document. Furthermore, because the inflation adjustments made through the interim final rules are required by Congress and involve no Commission discretion or policy judgments, these rules do not need to be submitted to the Speaker of the House of Representatives or the President of the Senate under the Congressional Review Act, 5 U.S.C. 801 *et seq.* Moreover, because the APA's notice-and-comment procedures do not apply to these interim final rules, the Commission is not required to conduct a regulatory flexibility analysis under 5 U.S.C. 603 or 604. *See* 5 U.S.C. 601(2), 604(a). Nor is the Commission required to submit these revisions for congressional review under FECA. *See* 5 U.S.C. 30111(d)(1), (4) (providing for congressional review when Commission "prescribe[s]" a "rule of law"). The new penalty amounts will apply to civil monetary penalties that are assessed after the date the increase takes effect, even if the associated violation predated the increase.[7]

Explanation and Justification

Under the Inflation Adjustment Act, the Commission now must adjust each civil monetary penalty for inflation by applying a cost-of-living-adjustment ("COLA") ratio. The COLA ratio is the percentage that the consumer price index ("CPI") [8] for October 2015 exceeds the CPI for October of the "baseline year," which is the calendar year when the civil monetary penalty was first established, or when it was most recently adjusted under a provision of law other than the Inflation Adjustment Act.[9] To calculate the adjusted penalty, the Commission must multiply the civil monetary penalty amount in the baseline year by the COLA ratio.[10] The civil monetary penalty, however, may not be increased by more than 150% of the civil monetary penalty amount in effect on November 2, 2015.[11]

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[1] Public Law 114–74, sec. 701, 129 Stat. 584, 599.

[2] Public Law 101–410, 104 Stat. 890 (codified at 28 U.S.C. 2461 note), as amended by Debt Collection Improvement Act of 1996, Public Law 104–134, sec. 31001(s)(1), 110 Stat. 1321, 1373; Federal Reports Elimination Act of 1998, Public Law 105–362, sec. 1301, 112 Stat. 3280.

[3] Inflation Adjustment Act secs. 4(b), 5.

[4] Inflation Adjustment Act sec. 3(2).

[5] *See* Inflation Adjustment Act sec. 7(a) (requiring OMB to "issue guidance to agencies on implementing the inflation adjustments required under this Act"); *see also* Memorandum from Shaun Donovan, Director, Office of Management and Budget, to Heads of Executive Departments and Agencies, M–16–06 at 3 (Feb. 24, 2016) ("OMB Memorandum"), *https://www.whitehouse.gov/sites/default/files/omb/memoranda/2016/m-16-06.pdf.*

[6] *See, e.g., Asiana Airlines* v. *FAA,* 134 F.3d 393, 396–99 (D.C. Cir. 1998) (finding APA "notice and comment" requirement not applicable where Congress clearly expressed intent to depart from normal APA procedures); *see also* Inflation Adjustment Act sec. 4(a), (b)(1) (requiring federal agencies to adjust civil monetary penalties "through an interim final rulemaking").

[7] Inflation Adjustment Act sec. 6.

[8] The Inflation Adjustment Act uses the CPI "for all-urban consumers published by the Department of Labor." *Id.* sec. 3.

The Commission assesses two types of civil monetary penalties that now must be adjusted for inflation. First are those penalties that are either negotiated by the Commission or imposed by a court for violations of FECA, the Presidential Election Campaign Fund Act, and the Presidential Primary Matching Payment Account Act. These civil monetary penalties are set forth at 11 CFR 111.24. Second are the civil monetary penalties assessed through the Commission's Administrative Fines Program for late filing or non-filing of certain reports required by FECA. *See* 52 U.S.C. 30109(a)(4)(C) (authorizing Administrative Fines Program), 30104(a) (requiring political committee treasurers to report receipts and disbursements within certain time periods). The penalty schedules for these civil monetary penalties are set out at 11 CFR 111.43 and 111.44.

1. 11 CFR 111.24—Civil Penalties

FECA established the civil monetary penalties for violations of FECA and the other statutes within the Commission's jurisdiction. *See* 52 U.S.C. 30109(a)(5), (6), (12). Commission regulations in 11 CFR 111.24 provide the current inflation-adjusted amount for each such civil monetary penalty. To calculate the catch-up adjustment for each of the five civil monetary penalties in 11 CFR 111.24, the Commission must first identify the later of: The year the civil monetary penalty was first established, or the year it was last adjusted by law other than under the Inflation Adjustment Act. The Commission then must apply the COLA ratio to the amount of the civil monetary penalty in effect in the baseline year.[12]

The civil monetary penalties at 11 CFR 111.24(a)(1) and 11 CFR 24(a)(2)(i) were established by statute in 1976.[13] The civil monetary penalty at 11 CFR 111.24(a)(2)(ii) was established in 2002.[14] The civil monetary penalties at 11 CFR 111.24(b) were established in 1980.[15] None of these penalties has been adjusted since its establishment, other than for inflation. Accordingly, as described above, the Commission determines the adjusted penalty amount by multiplying the amount of the penalty in the baseline year by the COLA ratio for that year and rounding that figure to the nearest dollar. But the Commission may not increase the civil monetary penalty amount by more than 150% of the amount that was in effect for that civil monetary penalty on November 2, 2015. Thus, for example, in section 111.24(a)(1), the 2015 civil monetary penalty amount was $7,500. The maximum the new civil monetary penalty can increase by is 150% of that amount, which would be an increase of $11,250, for a maximum penalty of $18,750. Because applying the COLA ratio to the originally established penalty amount would lead to an adjusted penalty of approximately $20,500, which exceeds the 150% cap amount, the new civil monetary penalty for section 111.24(a)(1) is $18,750. The actual adjustment to each civil monetary penalty is shown in the chart below.

Section	Baseline year	Civil penalty in year est.	COLA Ratio [16]	Adjusted penalty (rounded)	2015 Penalty amt.	150% Cap (rounded)	New civil penalty
11 CFR 111.24(a)(1)	1976	$5,000	4.10774	$20,539	$7,500	$18,750	$18,750
11 CFR 111.24(a)(2)(i)	1976	10,000	4.10774	41,077	16,000	40,000	40,000
11 CFR 111.24(a)(2)(ii)	2002	50,000	1.31185	65,593	65,000	162,500	65,593
11 CFR 111.24(b)	1980	2,000	2.80469	5,609	3,200	8,000	5,609
11 CFR 111.24(b)	1980	5,000	2.80469	14,023	7,500	18,750	14,023

2. 11 CFR 111.43, 111.44—Administrative Fines

FECA authorizes the Commission to assess civil monetary penalties for violations of the reporting requirements of 52 U.S.C. 30104(a) according to the penalty schedules "established and published by the Commission." 52 U.S.C. 30109(a)(4)(C)(i). The Commission has established two such schedules: The schedule in 11 CFR 111.43(a) applies to reports that are not election sensitive, and the schedule in 11 CFR 111.43(b) applies to reports that are election sensitive.[17] Each schedule contains two columns of penalties, one for late-filed reports and one for non-filed reports, with penalties based on the level of financial activity in the report and its lateness (where applicable).[18] In addition, 11 CFR 111.43(c) establishes a civil monetary penalty for situations in which a committee fails to file a report and the Commission cannot calculate the relevant level of activity. Finally, 11 CFR 111.44 establishes a civil monetary penalty for failure to file timely reports of contributions received less than 20 days, but more than 48 hours, before an election. *See* 52 U.S.C. 30104(a)(6).

The Commission established the penalty schedules in 11 CFR 111.43(a) and (b) in 2000, when the Commission promulgated its Administrative Fines program. Administrative Fines, 65 FR 31787, 31796–97 (May 19, 2000) ("2000 Administrative Fines"). In 2003, the Commission adjusted these schedules to reduce certain penalties for political committees with low levels of financial activity. Administrative Fines, 68 FR 12572, 12573 (Mar. 17, 2003) ("2003 Administrative Fines") (establishing

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[9] *Id.* sec. 5(b)(2)(A).

[10] *Id.* sec. 5(b)(2)(B).

[11] *Id.* sec. 5(b)(2)(C).

[12] The COLA ratios are provided in the OMB Memorandum, M–16–06 at 6.

[13] Public Law 94–283, sec. 109, 90 Stat. 475 (codified at 52 U.S.C. 30109(a)(5)(A)–(B)); *see also* Civil Monetary Penalties Inflation Adjustments, 78 FR 44419 (July 24, 2013) ("2013 Adjustment); Civil Monetary Penalties Inflation Adjustments, 74 FR 31345, 31346 (July 1, 2009), *amended by* Civil Monetary Penalties Inflation Adjustments, 74 FR 37161 (July 28, 2009) (collectively, "2009 Adjustment"); Inflation Adjustments for Civil Monetary Penalties, 70 FR 34633, 34634 (June 15, 2005) ("2005 Adjustment"); Adjustments to Civil Monetary Penalty Amounts, 62 FR 11316 (Mar. 12, 1997) ("1997 Adjustment").

[14] Public Law 107–155, sec. 312(a), 116 Stat. 81 (codified at 52 U.S.C. 30109(a)(5)(B)); *see also* 2013 Adjustment, 78 FR at 44420; 2009 Adjustment, 74 FR at 31346, 74 FR 37161; 2005 Adjustment, 70 FR at 34634.

[15] Public Law 96–187, sec. 108, 93 Stat. 1339 (codified at 52 U.S.C. 30109(a)(12)); *see also* 2013 Adjustment, 78 FR at 44420; 2009 Adjustment, 74 FR at 31346, 74 FR 37161; 2005 Adjustment, 70 FR at 34635; 1997 Adjustment, 62 FR at 11316–17.

[16] OMB Memorandum, Table A.

[17] Election sensitive reports are certain reports due shortly before an election. *See* 11 CFR 111.43(d)(1).

[18] A report is considered to be "not filed" if it is never filed or is filed more than a certain number of days after its due date. *See* 11 CFR 111.43(e).

"new schedules that reduce civil money penalties for . . . committees with less than $50,000 in activity"). Other than for inflation, these penalty schedules have not been adjusted since 2003.[19] The civil monetary penalties in 11 CFR 111.43(c) and 111.44 were established in 2000 and, except for inflation, have not been adjusted since.[20]

As described above, to determine the adjusted penalty amount, the Commission first multiplies the amount of the penalty in the baseline year by the COLA ratio for that year and rounds that figure to the nearest dollar. For certain penalties assessed at low levels of financial activity (up to $49,999.99) the baseline year is 2003. 2003 Administrative Fines, 68 FR at 12573–75. For all other penalties, the baseline year is 2000. 2000 Administrative Fines, 65 FR at 31792–98. The adjusted civil monetary penalty for each level of activity is the baseline year penalty amount multiplied by the COLA ratio that is provided in the OMB Memorandum. None of these adjusted civil monetary penalties exceeds the 150% cap. The new civil monetary penalties are shown in the schedules in the revised rule text, below.

List of Subjects in 11 CFR Part 111

Administrative practice and procedures, Elections, Law enforcement, Penalties.

For the reasons set out in the preamble, the Federal Election Commission amends subchapter A of chapter I of title 11 of the *Code of Federal Regulations* as follows:

PART 111—COMPLIANCE PROCEDURE (52 U.S.C. 30109, 30107(a))

■ 1. The authority citation for part 111 continues to read as follows:

Authority: 52 U.S.C. 30102(i), 30109, 30107(a), 30111(a)(8); 28 U.S.C. 2461 nt.; 31 U.S.C. 3701, 3711, 3716–3719, and 3820A, as amended; 31 CFR parts 285 and 900–904.

§ 111.24 [Amended]

■ 2. Section 111.24 is amended as follows:

In the table below, for each section indicated in the left column, remove the number indicated in the middle column, and add in its place the number indicated in the right column.

Section	Remove	Add
111.24(a)(1)	$7,500	$18,750
111.24(a)(2)(i)	16,000	40,000
111.24(a)(2)(ii)	65,000	65,593
111.24(b)	3,200	5,609
111.24(b)	7,500	14,023

■ 3. Section 111.43 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 111.43 What are the schedules of penalties?

(a) The civil money penalty for all reports that are filed late or not filed, except election sensitive reports and pre-election reports under 11 CFR 104.5, shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–4,999.99 [a]	[$32 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$321 × [1 + (.25 × Number of previous violations)].
$5,000–9,999.99	[$64 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$386 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$137 + ($6 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$643 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$273 + ($26 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1,157 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$410 + ($103 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$3,691 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$547 + ($137 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4,784 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$820 + ($171 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6,151 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1,094 + ($205 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$7,518 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$1,367 + ($239 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8,885 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$2,050 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$10,935 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$2,734 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,302 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$3,417 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,985 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$4,101 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,669 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$4,784 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$14,352 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$5,468 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,036 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$6,151 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,719 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$6,834 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,403 × [1 + (.25 × Number of previous violations)].

[a] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

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[19] *See* 2013 Adjustment, 78 FR at 44420; 2009 Adjustment, 74 FR at 31346–47; 2005 Adjustment, 70 FR at 34635.

[20] 2000 Administrative Fines, 65 FR at 31797–98; *see also* 2013 Adjustment, 78 FR at 44420; 2009 Adjustment, 74 FR at 31347; 2005 Adjustment, 70 FR at 34635.

(b) The civil money penalty for election sensitive reports that are filed late or not filed shall be calculated in accordance with the following schedule of penalties:

If the level of activity in the report was:	And the report was filed late, the civil money penalty is:	Or the report was not filed, the civil money penalty is:
$1–$4,999.99 [a]	[$64 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$643 × [1 + (.25 × Number of previous violations)].
$5,000–$9,999.99	[$129 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$771 × [1 + (.25 × Number of previous violations)].
$10,000–24,999.99	[$193 + ($13 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1,157 × [1 + (.25 × Number of previous violations)].
$25,000–49,999.99	[$410 + ($32 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$1,800 × [1 + (.25 × Number of previous violations)].
$50,000–74,999.99	[$615 + ($103 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$4,101 × [1 + (.25 × Number of previous violations)].
$75,000–99,999.99	[$820 + ($137 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$5,468 × [1 + (.25 × Number of previous violations)].
$100,000–149,999.99	[$1,230 + ($171 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$6,834 × [1 + (.25 × Number of previous violations)].
$150,000–199,999.99	[$1,640 + ($205 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$8,201 × [1 + (.25 × Number of previous violations)].
$200,000–249,999.99	[$2,050 + ($239 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$10,252 × [1 + (.25 × Number of previous violations)].
$250,000–349,999.99	[$3,076 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$12,302 × [1 + (.25 × Number of previous violations)].
$350,000–449,999.99	[$4,101+ ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$13,669 × [1 + (.25 × Number of previous violations)].
$450,000–549,999.99	[$5,126 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$15,036 × [1 + (.25 × Number of previous violations)].
$550,000–649,999.99	[$6,151 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$16,403 × [1 + (.25 × Number of previous violations)].
$650,000–749,999.99	[$7,176 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$17,770 × [1 + (.25 × Number of previous violations)].
$750,000–849,999.99	[$8,201 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$19,136 × [1 + (.25 × Number of previous violations)].
$850,000–949,999.99	[$9,227 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$20,503 × [1 + (.25 × Number of previous violations)].
$950,000 or over	[$10,252 + ($273 × Number of days late)] × [1 + (.25 × Number of previous violations)].	$21,870 × [1 + (.25 × Number of previous violations)].

[a] The civil money penalty for a respondent who does not have any previous violations will not exceed the level of activity in the report.

(c) If the respondent fails to file a required report and the Commission cannot calculate the level of activity under paragraph (d) of this section, then the civil money penalty shall be $7,518.

* * * * *

§ 111.44 [Amended]

■ 4. In § 111.44, paragraph (a)(1) is amended by removing "$110" and adding in its place "$137".

Dated: June 16, 2016.

On behalf of the Commission.

Matthew S. Petersen,

Chairman, Federal Election Commission.

[FR Doc. 2016–14877 Filed 6–23–16; 8:45 am]

BILLING CODE 6715–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 25, 121, and 129

[Docket No.: FAA–2014–0500; Amdt. Nos. 25–142, 21–376, and 129–53]

RIN 2120–AK30

Fuel Tank Vent Fire Protection

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The FAA is amending certain airworthiness regulations for transport category airplanes to require fuel tank designs that prevent a fuel tank explosion caused by the propagation of flames, from external fires, through the fuel tank vents. This final rule requires a delay of two minutes and thirty seconds between exposure of external fuel tank vents to ignition sources and explosions caused by propagation of flames into the fuel tank, thus increasing the time available for passenger evacuation and emergency response. These amendments apply to applications for new type certificates and certain applications for amended or supplemental type certificates. The amendments also require certain airplanes produced in the future and operated by air carriers to meet the new standards.

DATES: Effective August 23, 2016. The compliance date for the requirements in § 25.975 is August 23, 2016. The compliance date for the requirements in §§ 121.1119 and 129.119 is August 23, 2018.

ADDRESSES: For information on where to obtain copies of rulemaking documents and other information related to this final rule, see "How to Obtain Additional Information" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact Mike Dostert, Propulsion and Mechanical Systems Branch, ANM–112, Transport Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 1601 Lind Ave SW., Renton, WA 98057–3356; telephone (425) 227–2132; facsimile (425) 227–1149; email *Mike.Dostert@faa.gov.*

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules on aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority.

This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, "General Requirements." Under that section, the FAA is charged with promoting safe flight of civil aircraft in air commerce by prescribing regulations and minimum standards, for the design and performance of aircraft, that the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority. It prescribes new safety standards for the design and operation of transport category airplanes.

I. Overview of Final Rule

A. General

The FAA is amending title 14, Code of Federal Regulations (14 CFR) parts 25, 121, and 129 as described below. The intent of this rule is to prevent fuel tank explosions caused by ignition from external ignition sources of fuel vapor either contained in vapor spaces [1] or exiting from vapor spaces through the fuel tank vent outlets. Potential external ignition sources include, but are not limited to, ground handling equipment, fuel fires that result from refueling spills, or ground fires that follow a survivable crash landing in which the fuel tank and the vent system remain intact. Means to prevent or delay the propagation of flame [2] from external sources into the fuel tank through the fuel tank vent system [3] would also prevent or delay fuel tank explosions following certain accidents. These means include flame arrestors or fuel tank inerting. This prevention or delay would provide additional time for the safe evacuation of passengers from the airplane and for emergency personnel to provide assistance.

This rule applies to applications for new type certificates and applications for amended or supplemental type certificates on significant product-level change projects in which § 25.975, "Fuel tank vents and carburetor vapor vents," is applicable to a changed area. Additionally, a new operating requirement in both 14 CFR part 121, "Operating Requirements: Domestic, Flag, and Supplemental Operations," and 14 CFR part 129, "Operations: Foreign Air Carriers and Foreign Operators of U.S.-Registered Aircraft Engaged in Common Carriage," applies to airplanes that are issued an original airworthiness certificate after a specified date. The FAA is not requiring retrofit of the existing fleet.

Concurrent with the publication of this rule, the FAA is publishing Advisory Circular (AC) 25.975–1 that provides guidance concerning means of compliance with the revised § 25.975.[4]

II. Background

A. Statement of the Problem

This rulemaking addresses the problem of fuel tank explosions caused by flame propagation from fires outside the airplane reaching the fuel tank through the fuel tank vents. Fires outside of the airplane fuel tanks can be caused by ignition of fuel spilled during refueling, fuel and oil spillage from engines that separate from the airplane following an accident, or fuel leaking from damaged airplane fuel tanks. In some cases, external fires have ignited fuel vapors that have exited the fuel tank vents, resulting in flames traveling back through the vent lines into the fuel tank and causing fuel tank explosions. These explosions have caused passenger fatalities and prevented emergency personnel from assisting survivors.

Existing requirements address some ignition sources. Airworthiness standards in § 25.981 for preventing fuel system explosions include requirements to prevent ignition sources inside the fuel tanks caused by failures of airplane components or external heating of the fuel tank walls. The fuel tank venting standards in § 25.975 include requirements to ensure fuel tank structural integrity following failures of the refueling system that could result in overfilling of the fuel tanks, or clogging of the vents due to ice. Section 25.954, "Fuel system lightning protection," requires that fuel tank vents be designed and arranged to prevent the ignition of fuel vapor within the system by lightning strikes. These regulations, however, do not address the risk posed by flame from external ignition sources entering the fuel tank through the fuel vents.

Most new type designs and transport category airplanes currently in production include flame arrestors or other means to prevent flame propagation through the fuel vent lines into the fuel tanks. However, some models of newly manufactured airplanes produced under older type certificates and introduced into the U.S. fleet do not have a means of preventing fuel tank explosions caused by external ignition sources. In addition, lack of a specific part 25 regulation to address this has resulted in some applicants completing initial airplane designs and applying for a U.S. type certificate without having accounted for the risk of flame propagation through fuel vent lines.

B. History

These amendments stem from an industry study of potential post-crash survivability and FAA airworthiness actions in response to accidents that involved fuel tank explosions. The FAA has issued airworthiness directives (ADs) that require flame arrestors, or verification of their functionality, on several airplane models. In 1999, following a review of fuel tank explosions on older designs, the FAA issued an AD [5] mandating incorporation of flame arrestors on Boeing Model 737 airplanes. That AD action eliminated the risk of fuel tank explosions from flames entering the fuel tanks through the fuel tank vents on early models of the Boeing 737. More recently, in 2008, the FAA issued an AD requiring installation of flame arrestors on the Lockheed Model 382.[6]

The Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee [7] examined transport category airplane post-crash fires and determined that four fuel tank explosions resulting from post-crash fires could have been avoided if flame arrestors or surge tank explosion suppression systems[8] had been installed in the airplane fuel tank vents.[9] The SAFER Committee examined methods of preventing fuel tank explosions following impact in survivable accidents, including controlling the fuel tank flammability using nitrogen inerting systems, using fire suppression systems, and installation of flame arrestors.

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[1] A vapor space is any portion of the airplane fuel tanks and the fuel tank vent system that, if such tanks and system held any fuel, could contain fuel vapor.

[2] Flame propagation is the spread of a flame in a combustible environment outward from the point at which the combustion started.

[3] A fuel tank vent system is a system that ventilates fuel vapor from the airplane fuel tanks to the atmosphere. A fuel tank vent system ensures that the air and fuel pressure within the fuel tank stay within structural limits required by § 25.975 (a).

[4] AC 25.975–1 is available on the FAA Web site at *http://www.faa.gov/regulations_policies/advisory_circulars/.*

[5] AD 99–03–04 BOEING: Amendment 39–11018; Docket 98–NM–50–AD (effective March 9, 1999).

[6] AD 2011–15–02 LOCKHEED: Amendment 39–16749; Docket No. FAA–2010–1305 (effective August 19, 2011).

[7] Special Aviation Fire and Explosion Reduction (SAFER) Advisory Committee Final Report, Volume 1, FAA–ASF–80–4, dated June 26, 1978, through June 26, 1980. A copy of this report has been placed in the docket of this proceeding.

The SAFER Committee determined the most practical means of preventing post-crash fuel tank explosions was the use of flame arrestors. Flame arrestors stop the flame from traveling through the fuel tank vents by quenching the flame. Flame arrestors are typically made of numerous small stainless steel passages that remove heat from the flame so it dies out before passing into the fuel tank. This delays propagation of ground fires into the fuel tank and subsequent explosions, providing additional time for the safe evacuation of passengers. The two flame arrestors installed on a typical transport airplane weigh approximately 2 to 4 pounds each.

In 1995, based on the SAFER Committee report, the FAA issued an NPRM entitled, "Fuel System Vent Fire Protection," (60 FR 6632), dated February 2, 1995. That NPRM proposed to require 5 minutes of fuel tank vent fire protection in new type designs for transport category airplanes, and amend certain operating rules to require retrofit of the existing fleet of transport category airplanes. The FAA received comments on the NPRM that questioned the proposed 5-minute standard and the accuracy of the economic analysis related to the proposed retrofit requirement. Comments also suggested that the FAA should develop additional guidance, in the form of an AC, to provide an acceptable method of qualifying flame arrestors as a means of meeting the proposed requirement.

To address those 1995 comments, the FAA obtained additional cost information from component suppliers, and drafted an AC that included a means of demonstrating compliance. That means of compliance was the installation of fuel tank vent flame arrestors that would prevent propagation of flames through the fuel tank vents into the fuel tanks for a minimum of 2 minutes and 30 seconds. In 2001, the FAA tasked its Aviation Rulemaking Advisory Committee (ARAC) to review a draft final rule, including the FAA's proposed disposition of public comments, and the draft AC. In 2002, due to the ARAC tasking, the FAA published in the **Federal Register** a notice of withdrawal of the NPRM that had been published in 1995. Because of industry resource issues and FAA rulemaking prioritization activities, however, no work was done on these ARAC taskings. The FAA published a withdrawal of the tasks on June 21, 2004.

As an alternative, the FAA developed a strategy for a number of rulemaking projects that had been tasked to the ARAC. In 2005, the FAA issued a letter[10] to the head of the Transport Airplane and Engine Issues Group describing the agency's intent to use the process under 14 CFR 21.21 of finding an unsafe design feature to address the need to prevent flame propagation through fuel tank vents. Since 2005, the FAA has used issue papers applicable to specific certification projects, which have resulted in the inclusion of flame arrestors in the design of new type certificated airplanes.

Prior to the FAA's issuance of the 2005 letter, however, many manufacturers had followed industry recommendations and voluntarily introduced flame arrestors into their new type designs.

However, some business jets and smaller transport category airplanes do not incorporate flame arrestors or other means to prevent flame propagation into the fuel tanks. Also, some airplanes operating under 14 CFR part 121 do not have such means, including older models like the DC–9 and MD–80, and all DHC–8 turboprops and Canadair Regional Jets, both of which are still in production. This amendment addresses those airplanes.

As discussed in the NPRM, the FAA based the 2 minute and 30 seconds, in part, on previous Aerospace Industries Association (AIA) comments to the NPRM the FAA published in 1995 that proposed a 5-minute standard. AIA stated that flame arrestors in production at that time could not meet the proposed 5-minute standard and that 5 minutes was overly conservative. Based on those comments, the FAA reviewed the capability and the service experience of in-production designs, as well as the conservatism of the flame-holding test methods used for evaluating flame arrestor performance. In 1996, the FAA determined that a 2 minute and 30 second capability allowed flame arrestors in production at that time to provide adequate evacuation and emergency response time. Since that time, under §§ 21.21(b)(2) and 25.601, the FAA has applied issue papers to new type certification projects that approved applicants' proposals to reduce the risk of fuel tank explosions by incorporating flame arrestors with a 2 minute and 30 second delay capability.

The FAA also reviewed other rules related to passenger safety when selecting the delay of 2 minute and 30 seconds for a fuel tank vent protection standard. Section 25.803, "Emergency evacuation," sets a performance-based standard that, under specified conditions, the airplane must be capable of being evacuated within 90 seconds. The conditions assume the availability of a minimum number of exits and that all passengers are uninjured and physically capable of departing the airplane. However, experience has shown that this is not always the case after an accident, so additional time is needed for passenger evacuation and emergency response.

Section 25.856, "Thermal/Acoustic insulation materials," sets minimum standards for preventing penetration of a fuel fire through the airplane fuselage, including testing requirements in appendix F of part 25 that require 5 minutes as the minimum burn-through time.[11] Studies of past accidents[12] [13] show the greatest benefits in evacuating passengers and allowing emergency crews time to arrive are provided with a minimum burn-through time of 5 minutes. However, flame arrestors that meet a 5-minute standard would need to be significantly larger and heavier than a flame arrestor meeting the 2 minute and 30 second standard. Such arrestors could also require changes to the fuel system vent lines in order to meet airplane refueling performance requirements, resulting in additional cost. Therefore, a minimum standard of 2 minutes and 30 seconds is appropriate for preventing the propagation of flames from outside the tank through the fuel tank vents into fuel tank vapor spaces.

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[8] Boeing developed surge tank explosion suppression systems that were installed on some Boeing airplanes to prevent a lightning strike from igniting fuel vapor in the fuel tank vent system. These systems used light sensors that activated the discharge of fire suppression agent into the vent surge tank to prevent the fire from traveling through the vents into the airplane fuel tanks.

[9] SAFER Report, page 49, Figure 3.

[10] John Hickey, Director, Aircraft Certification Service, to Craig Bolt, Assistant Chair, Transport Airplane and Engine Issues Group, 14 June 2005.

[11] This time includes 1 minute for a fire to penetrate the fuselage skin and an additional 4 minutes for the fire to burn through the insulation.

[12] DOT/FAA/AR–99/57, "Fuselage Burnthrough Protection for Increased Postcrash Occupant Survivability: Safety Benefit Analysis Based on Past Accidents," September 1999.

[13] DOT/FAA/AR–09/18, "Determination of Evacuation and Firefighting Times Based on an Analysis of Aircraft Accident Fire Survivability Data," May 2009.

C. Summary of the NPRM

On August 1, 2014, the FAA issued an NPRM proposing to amend §§ 25.975, 121.1119, and 129.119. The **Federal Register** published that NPRM as Notice No. 14–07, Docket No. FAA–2014–0500, on August 15, 2014 (79 FR 48098). In that NPRM, the FAA proposed to require that fuel tank designs prevent fuel tank explosions, for a minimum of 2 minutes and 30 seconds, caused by propagation of flames from outside the tank through the fuel tank vents into vapor spaces when any vent is continuously exposed to flame.

The comment period closed on September 29, 2014.

D. General Overview of Comments

The FAA received 19 comments from 10 commenters representing airplane manufacturers, regulators, a pilots association, and individuals. The Air Line Pilots Association (ALPA) and three individuals provided general comments in support of the amendments. The other commenters generally supported the proposed changes; however, some commenters suggested changes.

The FAA received comments on the following areas of the proposal:

- Minimum time for preventing flame propagation;
- Applicability of new §§ 121.1119 and 129.119;
- Applicability and compliance time for newly manufactured airplanes; and
- Economic evaluation.

III. Discussion of the Final Rule and Public Comments

A. "Fuel tank vents and carburetor vapor vents" (§ 25.975)

With some modification from what the FAA proposed in the NPRM, this final rule adds a new paragraph, (a)(7), to § 25.975 to require fuel tank vent systems be designed to prevent the propagation of flames from outside the tank through the fuel tank vents into fuel tank vapor spaces for a period of 2 minutes and 30 seconds. The intent of this new requirement is to prevent or delay fuel tank explosions to allow safe evacuation of passengers and crew, and to allow emergency personnel time to reach an accident and provide assistance.

Boeing recommended replacing the proposed minimum time requirement of 2 minutes and 30 seconds with 90 seconds. Boeing commented that, to meet the proposed requirement, current Boeing airplanes may need to be redesigned, and current flame arrestor installations would have to be redesigned and recertified, both at significant cost. Boeing also commented that 90 seconds would allow sufficient time to evacuate passengers safely and be consistent with other evacuation time limits in § 25.803.

When considering Boeing's comment that its designs would not meet the proposed 2 minute and 30 second delay, the FAA requested certification data for in-production Boeing designs and confirmed that existing Boeing flame arrestors meet the 2 minute and 30 second standard. Boeing's own data, from its approved flame arrestor installations, do not support its suggested standard of only 90 seconds. Also, as previously discussed, research data from accidents used to develop the requirements in § 25.856 do not support Boeing's position that a 90-second standard would provide adequate safety.

Lockheed Martin Aeronautics Company and Embraer commented their currently approved flame arrestor systems may not comply with the standard and would necessitate redesign of the systems for new production airplanes.

While the FAA determined that most[14] of these systems would not require redesign, the FAA has concluded that it would not be cost-effective to require redesign of any existing systems that do not meet the new standard. Therefore, we have revised the provisions of §§ 121.1119 and 129.119 to prohibit operation of new production airplanes unless an FAA-approved means to prevent fuel tank explosions caused by propagation of flames from outside the fuel tanks is installed and operational. Both of these regulations permit the continued installation and operational use of previously approved means to prevent such fuel tank explosions. For those airplanes that do not currently have such approved means, the design approval holder would be required to show compliance with the new standard to obtain approval.

Lockheed requested a reduction of the minimum time requirement to 120 seconds for airplanes approved for cargo-only operations due to shorter evacuation times needed for fewer occupants in the airplane. In addition, Lockheed contends that the FAA has previously accepted designs on cargo airplanes that did not meet the 2 minute and 30 second standard.

Lockheed raised a valid point regarding the Lockheed 382 cargo airplanes equipped with flame arrestors. In considering this request, the FAA reviewed past certification data and supporting documentation submitted by Lockheed. Lockheed amended the design of the Lockheed 382 to include fuel tank vent flame arrestors in 2008. At that time, there was no regulatory requirement for a 2 minute and 30 second capability for the fuel tank vent flame arrestors. Therefore, based on retrofit of flame arrestors into an existing design and the operation of the airplane for cargo use only, the FAA approved a 2-minute capability for the flame arrestor installation on those airplanes.

Since 2008, however, the FAA has determined that cargo operations should not be a basis for a fuel vent protection regulatory requirement. Cargo airplanes are commonly modified and operated in various configurations that may allow carriage of supernumeraries and passengers. Providing longer fuel tank vent protection time may also prevent a fuel tank explosion that endangers ground support or emergency response personnel. Therefore, the FAA does not agree with Lockheed that a 2-minute standard should be adopted as the standard for all cargo transport airplanes, and the FAA is adopting § 25.975(a)(7) as proposed.

Embraer requested the rule be limited to preventing fuel tank explosions following a crash landing. Embraer supported its request by inferring that § 25.979, "Pressure fueling system," and associated refueling procedures included in aircraft maintenance manuals address explosions during refueling and other ground operating conditions.

The FAA does not agree that the regulation should only apply to post-crash scenarios. In addition to fuel and oil spillage following survivable accidents, fires outside of the airplane fuel tanks have been caused by fuel spilled during refueling and leaking airplane fuel tanks. These external fires may ignite fuel vapors that exit the fuel tank vents, resulting in flames traveling back through the vent lines into the fuel tank, causing fuel tank explosions. Therefore, this amendment addresses any event that could result in fire outside the fuel tanks, including refueling operations. Additionally, it is not redundant of § 25.979 because that section only addresses the design of the fueling system, which would not address or prevent situations of spillage from improper fueling practices or leakage from malfunctioning fueling systems.

The FAA made minor editorial changes to new paragraph (a)(7) in § 25.975 from what was proposed in the

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[14] The previously approved Lockheed 328 and Embraer flame arrestors would not have met the 2 minute and 30 second requirement.

NPRM. The edits are for clarity and do not change the effect of the regulation.

B. Amendment to §§ 121.1119 and 129.119, "Fuel tank vent explosion protection"

With minor modifications from what was proposed in the NPRM, the FAA is adding new operations rules requiring operators of certain transport category, turbine powered airplanes produced more than 2 years after the effective date of this rule to have FAA-approved fuel tank vent fire protection means to prevent fuel tank vent explosions. This requirement is added to 14 CFR part 121, "Operating Requirements: Domestic, Flag, and Supplemental Operations," and 14 CFR part 129, "Operations: Foreign Air Carriers and Foreign Operators of U.S.-Registered Aircraft Engaged in Common Carriage." As discussed above, the FAA is not requiring manufacturers with currently approved flame arrestors to redesign their systems in order to comply with §§ 121.1119 and 129.119.

This amendment applies to subject airplanes that are issued an original airworthiness certificate beginning 24 months after the effective date of this final rule. The FAA based the 24-month compliance period on time estimates needed to design and develop fuel tank vent protection means for existing airplane models that do not have previously approved flame arrestors. Flame arrestor technology is currently available. Adaptation of this technology, and the certification and incorporation of the design into airplanes currently in production should be achievable within the two-year compliance time.

Bombardier recommended withdrawal of the proposed changes to parts 121 and 129, citing a lack of demonstrated safety improvement and the added cost of flame arrestors.

The FAA accounted for the cost to Bombardier products in the economic evaluation for the NPRM and found safety benefits based on industry recommendations and the risks documented in the ADs issued on certain airplane models. In addition to the 737 AD discussed in paragraph IIB, the FAA has issued other ADs to either require flame arrestors or verify their functionality on the Lockheed Model 1649A piston airplane,[15] Boeing Models 707 and 720,[16] the Beech Model 400A,[17] and the Lockheed Model 382.[18] The FAA has found that there is a safety benefit and economic justification to include a requirement in this amendment to bring all newly produced airplanes that are subject to this rulemaking that will operate under the requirements of § 121.1119 or § 129.119 up to the level of safety established for the airplanes that are subject to these referenced ADs. Therefore, the FAA did not make any changes as a result of this comment.

Embraer stated that it believes that the FAA's intent is to address specifically those higher capacity airplanes operating in scheduled airline service, and to prevent operators from escaping compliance by reducing the passenger or payload capacity to below the specified limits; and it believes that the FAA's intent is not to also require compliance for certain business jets that happen to be on a type certificate. Embraer noted that these smaller airplanes do not operate in part 121, but there are foreign-based charter operators who operate airplanes leased from U.S. owners who have FAA operating certificates issued under § 129.1(b). Embraer noted that if these operators were U.S. based, they would be part 135 air taxi operations that would not be subject to the requirements proposed in the NPRM. Therefore, Embraer suggested that the proposed § 129.119 be revised to except the Bombardier CL–600–2B16 and the Embraer EMB–135BJ.

The FAA does not concur with the request to exclude specific models from coverage under § 129.119. As proposed, this section would exclude airplanes with capacities below the specified thresholds. However, as Embraer recognizes, the proposed § 129.119(a) included the following qualifier: "as a result of original type certification or later increase in capacity." The proposed § 121.1119(a) contained this same language. Embraer correctly points out that, for certain Embraer and Bombardier models, this would have the unintended effect of applying the requirements to business jets that are included on the same type certificates as larger air carrier airplanes, even though the business jets have capacities below those specified in §§ 129.119 and 121.1119. To prevent the requirement from applying to these smaller airplanes, the FAA has eliminated the quoted qualifier in both identified sections in this final rule. In the future, if either Embraer or Bombardier choose to amend the type certificates to increase the capacity of these airplanes above the specified thresholds, §§ 129.119 and 121.1119 would apply to those newly produced airplanes.

C. Comments on the Economic Evaluation

EASA supported the proposal but commented that the regulatory economic evaluation should be revised to include the ATR42 and ATR 72 (ATR42/72). EASA noted these airplane models do not have flame arrestors in the fuel tank vents and would be affected by the flame arrestor requirement for newly manufactured airplanes entering U.S. service under parts 121 and 129.

The FAA does not agree. Certification costs incurred by foreign manufacturers are not included in cost analyses of proposed U.S. regulations. Costs incurred by U.S. operators of foreign-produced airplanes are included in such analyses. For this final rule, however, the FAA estimates these costs to be minimal for newly produced ATR42/72 airplanes, since the FAA expects the annual number of ATR42/72 deliveries to be few, if any. The FAA has determined that there are no planned deliveries of ATR42/72 airplanes to U.S. airline operators after 2018 when the final rule will take effect. Therefore, the FAA is not revising the economic analysis to include the ATR42/72.

Embraer also commented that the cost of the rule should be revised to include modification of an additional airplane model. One of its airplane models is designed to open a secondary refueling valve when the airplane being refueled does not have a flame arrestor. The primary vent outlets located near the wing tips have previously approved flame arrestors that meet the rule. The only affected airplane model with the open secondary vent design is the EMB145. Embraer currently has no orders or forecast deliveries for EMB145 airplanes with the unique secondary refueling vent.

In addition, even if future sales of this model occur, costs incurred by foreign manufacturers are not included in the costs of compliance, as costs directly attributable to foreign entities are not included in the cost-benefit analysis of U.S. regulations. Therefore, the FAA did not change the economic evaluation in response to this comment.

D. Differences Between the NPRM and the Final Rule

The FAA is adopting these rules as proposed in the NPRM with modifications as discussed above. Specifically, the FAA is revising §§ 121.1119 and 129.119 to remove the qualifying statement "as a result of original type certification or later increase in capacity," and to require only that fuel tank vent system explosion prevention means for new production airplanes be FAA-approved.

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[15] AD 59–20–02 LOCKHEED: Effective October 15, 1959, for items (1) and (2) and December 1, 1959, for item (3).

[16] AD 67–23–02 BOEING: Amendment 39–462. Effective September 10, 1967.

[17] AD 92–16–14 BEECH: Amendment 39–8323; Docket No. 92–NM–95–AD; effective September 1, 1992.

[18] AD 2011–15–02 LOCKHEED: Amendment 39–16749; Docket No. FAA–2010–1305; effective August 19, 2011.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Orders 12866 and 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of the final rule. The FAA suggests readers seeking greater detail read the full regulatory evaluation, a copy of which is in the docket for this rulemaking.

In conducting these analyses, the FAA has determined that this final rule: (1) Has benefits that justify its costs; (2) is not an economically "significant regulatory action" as defined in section 3(f) of Executive Order 12866; (3) is not "significant" as defined in DOT's Regulatory Policies and Procedures; (4) will not have a significant economic impact on a substantial number of small entities; (5) will not create unnecessary obstacles to the foreign commerce of the United States; and (6) will not impose an unfunded mandate on state, local, or tribal governments, or on the private sector by exceeding the threshold identified above. These analyses are summarized below.

Total Costs and Benefits of This Final Rule

The FAA finds the final rule to be cost-beneficial because the costs of the rule are low enough that the benefits of preventing just two fatalities outweigh the expected costs ($4.9 million in present value benefits versus $4.4 million in present value costs). If this action is not taken, a hazard will continue to exist even though effective and low-cost means are available to minimize or eliminate it.

Who is potentially affected by this Rule?

This rule applies to applicants for new type certificates, amended and supplemental type certificates involving significant product-level changes, and manufacturers and operators of currently certificated airplanes produced two or more years after the effective date of this rule. This rule does not require retrofit of the existing fleet.

Principal Assumptions and Sources of Information

- Discount rate is 7 percent (Office of Management & Budget, Circular A–94, "Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs," October 29, 1992, p. 8).
- Value of statistical life (VSL) begins at $9.2 million in 2013, and increases thereafter by an annual growth factor of 1.0107. Memorandum: Guidance on Treatment of the Economic Value of a Statistical Life in Department Analyses—2014 Adjustment, June 13, 2014. United States, Office of the Secretary of Transportation.
- For small part 25 manufacturers: An FAA study anticipates two U.S. airplane certifications in next 10-year period, twenty-one annual U.S. deliveries per U.S. certification; three foreign airplane certifications in next 10-year period, eleven annual U.S. deliveries per foreign certification, 15-year airplane production run; 30-year retirement age. Internal FAA study.
- Current airplane models that could be affected by production cut-in requirement: Bombardier Dash 8, CJ–700, and CJ–900. FAA 2013 Fleet Forecast, Fleet Forecast Sheet "FAA U.S. Airlines 2013–2013 1–18–2103," "Totals & FAA Tables."
- The period of analysis for new certifications is 45 years to account for a complete product life cycle determined by a 15-year production period and a 30-year service period.
- Certification cost estimates for part 25 airplanes—Small U.S. part 25 airplane manufacturers.
- Maintenance cost per airplane (every four years) for Bombardier CJ–700/CJ–900 regional jets (subject to production cut-in)—$240. This estimate is much lower than the U.S. estimate because it is for passenger airplane models while the U.S. estimate is for business jet models. Since business jets are more prone to sit for extended periods of time, their flame arrestors can more easily be clogged by ice, mud daubers, or other debris, thus requiring more frequent and longer maintenance.
- Minimal fuel costs as flame arrestors weigh between 2 and 4 pounds each.

Costs of This Final Rule

The costs of the final rule are engineering, production, and maintenance compliance costs for newly certificated part 25 airplanes and for the production cut-in of part 25 airplanes used in part 121 operations. The FAA first estimates compliance costs for new certifications and then for the production cut-in.

For newly certificated airplanes, compliance costs consist of engineering and production costs of U.S. manufactured airplanes delivered to U.S. operators and maintenance costs of both U.S. and foreign airplanes delivered to U.S. operators. U.S. part 25 manufacturers directly incur the engineering and production costs while U.S. operators directly incur the maintenance costs. Engineering and production costs incurred by foreign manufacturers are not included in the costs of compliance, as costs directly attributable to foreign entities are not included in the U.S. social cost and benefit analysis of U.S. regulations.

To calculate the cost of new U.S. certifications, the FAA assumes that all new certifications will be approved one year after the effective date of the rule, with production beginning one year later. Using an airplane life cycle model, the FAA estimates the economic impact for two new certificates, production of 21 airplanes/certificate/year, production runs of 15 years and an airplane retirement age of 30 years. Compliance costs per year are calculated over an airplane life cycle of 45 years.

Cost estimates were solicited from small part 25 manufacturers because large airplane manufacturers (Boeing and Airbus) are already compliant with the final rule. These cost estimates are shown in the table below.

INDUSTRY COST ESTIMATES USING FLAME ARRESTORS TO COMPLY WITH FINAL RULE ($ 2013)

Cost category	Cost	Notes
Nonrecurring Engineering Costs	$ 142,000	per model.
Recurring Cost (Hardware & Installation)	3,000	per model (two flame arrestors @$1,500 each).
Maintenance Cost (U.S. manufactured airplanes)	415	per airplane annually.
Maintenance Cost (Bombardier manufactured airplanes)	240	per airplane every 4 years.

The basic cost estimates consist of nonrecurring (one-time) engineering costs, production costs for two flame arrestors per airplane (one per fuel tank) and maintenance costs per airplane per year. The Bombardier maintenance cost estimate is used for estimating production cut-in costs of compliance.

Incorporating the industry cost estimates into the airplane life cycle model, the FAA finds total costs for new certification airplanes to be $16.2 million with present value of $4.2 million. $2.2 million of these costs (present value $1.2 million) are directly incurred by U.S. manufacturers, and $14.0 million (present value $2.1 million) are directly incurred by U.S. operators.[19] For details, see the full regulatory evaluation in the docket.

In addition to the requirement applying to new certifications, the final rule will also require a production cut-in for currently produced part 25 airplanes used in part 121 operations.[20] To calculate this cost, the FAA first notes that the only currently produced and U.S.-operated airplane models not already in compliance are the Bombardier Dash 8 turboprops and Bombardier CRJ–700/CRJ–900 regional jets. The final rule will apply to these Bombardier models produced beginning in 2018. Since the FAA forecasts no Dash 8 deliveries to U.S. airline operators after 2017, the FAA expects no Dash 8 compliance cost for those operators.

The FAA does forecast the delivery of 338 CRJ–700 and 161 CRJ–900 model airplanes to U.S. airline operators over the period 2018–2033. The engineering and production compliance costs for these airplanes are not included in our cost estimates because, as noted above, costs directly incurred by foreign entities are not included in the cost and benefit analysis of U.S. regulations. Accordingly, for these airplanes the FAA assesses the impact on U.S. operators only, using Bombardier's maintenance cost estimate of $240 every four years. Allocating this cost as $60 annually and assuming a production period of 16 years, the FAA calculates the maintenance costs for these airplanes from the first year of service to the retirement year of the last airplanes produced, using a procedure analogous to that used for new certification airplanes. The FAA finds these costs to operators to be $898,200 with present value $178,439.

Production cut-in costs of $898,200 (present value $178,439) added to new certification airplane costs of $16.2 million (present value $4.2 million) yield total rule costs of $17.1 million (present value $4.4 million).

Benefits of This Final Rule

Notwithstanding the absence of post-crash fuel tank explosions in recent years and lacking other sufficient bases upon which to estimate future risks, the merits of the final rule can be assessed by considering the number of fatalities that would need to be prevented to offset the costs of the rule.

The FAA estimates the breakeven benefits of the rule by estimating the number of averted fatalities necessary to offset the $4.4 million present value costs of the rule. The FAA finds that just two averted fatalities would offset these estimated costs. For details see the full regulatory evaluation in the docket.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act (RFA) of 1980 (Pub. L. 96–354) establishes "as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration." The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

All small U.S. manufacturers affected by this rule are wholly owned subsidiaries of large companies, who have more than 1,500 employees (the small business criterion for aircraft manufacturing) and, therefore, are not classified as small entities by the Small Business Administration. Part 121 operators will be directly affected by the average $415 annual maintenance cost per airplane. These costs are minimal, especially compared to the high cost of new part 25 airplanes. The FAA received no comments on this same finding in the NPRM.

If an agency determines that a rulemaking will not result in a significant economic impact on a substantial number of small entities, the head of the agency may so certify under section 605(b) of the RFA. Therefore, as provided in section 605(b), the head of the FAA certifies that this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, the establishment of standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards.

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[19] Details may not sum to totals due to rounding.

[20] We do not estimate costs for the analogous part 129 requirement as these costs are directly incurred by foreign operators.

The FAA has assessed the effect of this final rule and determined that its purpose is to ensure the safety of U.S. civil aviation. Therefore, the rule is in compliance with the Trade Agreements Act.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a "significant regulatory action." The FAA currently uses an inflation-adjusted value of $155.0 million in lieu of $100 million. This final rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there is no new requirement for information collection associated with this final rule.

F. International Compatibility and Cooperation

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. The FAA has determined this rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The agency determined that this action will not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, does not have Federalism implications.

B. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this final rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it is not a "significant energy action" under the executive order, and it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. How To Obtain Additional Information

A. Rulemaking Documents

An electronic copy of a rulemaking document may be obtained by using the Internet—

1. Search the Federal eRulemaking Portal (*http://www.regulations.gov*);
2. Visit the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/* or
3. Access the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request (identified by notice, amendment, or docket number of this rulemaking) to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680.

B. Comments Submitted to the Docket

Comments received may be viewed by going to *http://www.regulations.gov* and following the online instructions to search the docket number for this action. Anyone is able to search the electronic form of all comments received into any of the FAA's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.).

C. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. A small entity with questions regarding this document, may contact its local FAA official, or the person listed under the **FOR FURTHER INFORMATION CONTACT** heading at the beginning of the preamble. To find out more about SBREFA on the Internet, visit *http://www.faa.gov/regulations_policies/rulemaking/sbre_act/.*

List of Subjects

14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends parts 25, 121, and 129 of title 14, Code of Federal Regulations as follows:

PART 25—AIRWORTHINESS STANDARDS: TRANSPORT CATEGORY AIRPLANES

■ 1. The authority citation for part 25 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702 and 44704.

■ 2. Amend § 25.975 by revising paragraphs (a)(5) and (6) and adding paragraph (a)(7) to read as follows:

§ 25.975 Fuel tank vents and carburetor vapor vents.

(a) * * *

(5) There may be no point in any vent line where moisture can accumulate with the airplane in the ground attitude or the level flight attitude, unless drainage is provided;

(6) No vent or drainage provision may end at any point—

(i) Where the discharge of fuel from the vent outlet would constitute a fire hazard; or

(ii) From which fumes could enter personnel compartments; and

(7) Each fuel tank vent system must prevent explosions, for a minimum of 2 minutes and 30 seconds, caused by propagation of flames from outside the tank through the fuel tank vents into fuel tank vapor spaces when any fuel

tank vent is continuously exposed to flame.

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40119, 41706, 42301 preceding note added by Pub. L. 112–95, sec. 412, 126 Stat. 89, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44729, 44732; 46105; Pub. L. 111–216, 124 Stat. 2348 (49 U.S.C. 44701 note); Pub. L. 112–95, 126 Stat 62 (49 U.S.C. 44732 note).

■ 4. Add § 121.1119 to subpart AA to read as follows:

§ 121.1119 Fuel tank vent explosion protection.

(a) *Applicability.* This section applies to transport category, turbine-powered airplanes with a type certificate issued after January 1, 1958, that have:

(1) A maximum type-certificated passenger capacity of 30 or more; or

(2) A maximum payload capacity of 7,500 pounds or more.

(b) *New production airplanes.* No certificate holder may operate an airplane for which the State of Manufacture issued the original certificate of airworthiness or export airworthiness approval after August 23, 2018 unless means, approved by the Administrator, to prevent fuel tank explosions caused by propagation of flames from outside the fuel tank vents into the fuel tank vapor spaces are installed and operational.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

■ 5. The authority citation for part 129 continues to read as follows:

Authority: 49 U.S.C. 1372, 40113, 40119, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 44901–44904, 44906, 44912, 46105, Pub. L. 107–71 sec. 104.

■ 6. Add § 129.119 to subpart B to read as follows:

§ 129.119 Fuel tank vent explosion protection.

(a) *Applicability.* This section applies to transport category, turbine-powered airplanes with a type certificate issued after January 1, 1958, that have:

(1) A maximum type-certificated passenger capacity of 30 or more; or

(2) A maximum payload capacity of 7,500 pounds or more.

(b) *New production airplanes.* No certificate holder may operate an airplane for which the State of Manufacture issued the original certificate of airworthiness or export airworthiness approval after August 23, 2018 unless means, approved by the Administrator, to prevent fuel tank explosions caused by propagation of flames from outside the fuel tank vents into the fuel tank vapor spaces are installed and operational.

Issued under authority provided by 49 U.S.C. 106(f) and 44701(a) in Washington, DC, on June 7, 2016.

Michael P. Huerta,

Administrator.

[FR Doc. 2016–14454 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–7491; Directorate Identifier 2015–NE–39–AD; Amendment 39–18569; AD 2016–13–05]

RIN 2120–AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all General Electric Company (GE) GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines. This AD was prompted by an uncontained failure of the high-pressure compressor (HPC) stage 8–10 spool, leading to an airplane fire. This AD requires eddy current inspection (ECI) or ultrasonic inspection (USI) of the HPC stage 8–10 spool and removing from service those parts that fail inspection. We are issuing this AD to prevent failure of the HPC stage 8–10 spool, uncontained rotor release, damage to the engine, and damage to the airplane.

DATES: This AD is effective July 29, 2016.

ADDRESSES: See the **FOR FURTHER INFORMATION CONTACT** section.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–7491; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: John Frost, Aerospace Engineer, Engine Certification Office, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781–238–7756; fax: 781–238–7199; email: *john.frost@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all GE GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines. The NPRM published in the **Federal Register** on January 13, 2016 (81 FR 1582). The NPRM was prompted by an uncontained failure of the HPC stage 8–10 spool, leading to an airplane fire. The NPRM proposed to require ECIs or USIs of the HPC stage 8–10 spool and removing from service those parts that fail inspection. We are issuing this AD to prevent failure of the HPC stage 8–10 spool, uncontained rotor release, damage to the engine, and damage to the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. The following presents the comments received on the NPRM (81 FR 1582, January 13, 2016) and the FAA's response to each comment.

Support for the NPRM (81 FR 1582, January 13, 2016)

The Air Line Pilots Association expressed support for the NPRM (81 FR 1582, January 13, 2016).

Request To Change Applicability

British Airways, United Airlines, and The Boeing Company commented that HPC stage 8–10 spool, part numbers (P/Ns) 1844M90G01 and 1844M90G02 are not required in the Applicability paragraph of this AD. They noted that the associated AD 2015–27–01, (81 FR 1291, January 12, 2016) and the precipitating event involved only HPC stage 8–10 spool, P/N 1694M80G04.

We disagree. HPC stage 8–10 spool P/Ns 1844M90G01 and 1844M90G02 are susceptible to the same failure mode as HPC stage 8–10 spool, P/N 1694M80G04. However, we acknowledge that the one-time inspection is not needed for the majority of HPC stage 8–10 spool P/Ns 1844M90G01 and 1844M90G02. Therefore, we revised paragraph (e)(1) of this AD to apply to only specific serial numbers (S/Ns) of P/Ns 1844M90G01 and 1844M90G02 for the one-time inspection.

Request To Change Compliance Time

British Airways requested that we clarify if a repetitive on-wing inspection is required. They reasoned that the service information lists the on-wing inspection as one time only.

We disagree. Paragraph (e)(1) of this AD mandates that specific parts be inspected prior to a cycle limit. This initial inspection may be performed on wing using USI or at shop visit using ECI. Repetitive inspections prior to shop visit are not mandated, however we acknowledge that GE has commented that they should be performed. We did not change this AD.

Request To Change Terminating Action

GE requested that we remove the repetitive shop visit inspection from the Compliance section of this AD and instead mandate that the airworthiness limitations section (ALS) of the engine manual include the repetitive inspections. They also requested that the Summary section and Related Information section of this AD be revised to reflect this change. They reasoned that this will allow a terminating action for this AD.

We disagree. At this time we do not feel that a change to the ALS is appropriate as root cause has not been determined. We did not change this AD.

Request To Change Installation Prohibition

GE requested that we clarify that the installation prohibition does not apply to new parts. They stated that new parts do not need to be inspected prior to installation. The inspections are only applicable to parts that have been used in service.

We agree. We revised paragraph (f) of this AD to specify that inspections are only required for parts that have been used in service.

Request To Change Service Information

GE and British Airways requested that we revise the Related Service Information paragraph of this AD to remove the reference to Engine Manual, Chapter 72–00–31, Special Procedure 007 and add a reference to GE GE90 SB 72–1146. They reasoned that the Special Procedure is considered an additional inspection technique and the other inspection procedures listed provide full detection capability of defects in the area of concern.

We disagree. The service information is not incorporated by reference in this AD and was previously included for information purposes only. However, to preclude any confusion on this point, we removed all service information from the Related Information section of this AD.

Request To Change Applicability

GE requested that we reduce the applicability for the initial inspection. GE has determined that an older manufacturing process may be a contributor to part failure and that all parts manufactured using this process should be inspected prior to shop visit.

We agree. We revised the applicability of the initial inspection to include all HPC stage 8–10 spool, P/N 1694M80G04, and specific S/Ns of HPC stage 8–10 spool, P/Ns 1844M90G01 and 1844M90G02, that were manufactured using the older process.

Request To Change Compliance Time

GE has requested that the initial USI compliance time be reduced and to add repetitive inspections every 500 cycles until shop visit ECI for the parts manufactured using the older manufacturing process noted above. GE has determined that the smallest detectable flaw using USI with the compressor blades installed is larger than what was used in the prior analysis.

We partially agree. We agree that the USI inspection is not as capable as what was used in the prior analysis. We also agree that a reduced threshold for initial inspection is appropriate. So, we reduced the initial inspection threshold in paragraph (e)(1) of this AD from 10,500 cycles to 9,000 cycles and removed USI as an option for the inspections in paragraph (e)(2) of this AD. We disagree with including the 500 cycle repetitive inspections; however, repetitive inspections would be a consideration for additional rulemaking.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously. We have determined that these minor changes:

- Are consistent with the intent that was proposed in the NPRM (81 FR 1582, January 13, 2016) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (81 FR 1582, January 13, 2016).

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

Interim Action

GE is determining the root cause for the unsafe condition identified in this AD. Once a root cause is identified, we will consider additional rulemaking.

Costs of Compliance

We estimate that this AD affects 54 engines installed on airplanes of U.S. registry. We also estimate that it will take about 7 hours per engine to comply with this AD. The average labor rate is $85 per hour. We estimate one part will fail inspection at a cost of $780,000. Based on these figures, we estimate the total cost of this AD to U.S. operators to be $812,130.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. Subtitle VII: Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701: "General requirements." Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

This AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

(1) Is not a "significant regulatory action" under Executive Order 12866,

(2) Is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

2016–13–05 General Electric Company: Amendment 39–18569; Docket No. FAA–2015–7491; Directorate Identifier 2015–NE–39–AD.

(a) Effective Date

This AD is effective July 29, 2016.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GE90–76B, GE90–77B, GE90–85B, GE90–90B, and GE90–94B turbofan engines with a high-pressure compressor (HPC) stage 8–10 spool, part numbers (P/Ns) 1694M80G04, 1844M90G01, or 1844M90G02, installed.

(d) Unsafe Condition

This AD was prompted by an uncontained failure of the HPC stage 8–10 spool. We are issuing this AD to prevent failure of the HPC stage 8–10 spool, uncontained rotor release, damage to the engine, and damage to the airplane.

(e) Compliance

Comply with this AD within the compliance times specified, unless already done.

(1) For HPC stage 8–10 spool, P/N 1694M80G04, all serial numbers (S/Ns), or HPC stage 8–10 spool, P/N 1844M90G01 or 1844M90G02, with a S/N listed in Figure 1 to paragraph (e) of this AD; perform an eddy current inspection (ECI) or ultrasonic inspection (USI) of the stage 8 aft web upper face, after reaching 8,000 cycles since new (CSN), but, before exceeding 9,000 CSN, or within 500 cycles in service after the effective date of this AD, whichever occurs later.

FIGURE 1 TO PARAGRAPH (e)—HPC STAGE 8–10 SPOOL S/NS

Part Nos.	Serial Nos.				
1844M90G01	GWN005MF	GWNBK753	GWNBS077	GWNBS497	GWNBS724
	GWN005MG	GWNBK754	GWNBS078	GWNBS499	GWNBS794
	GWN0087M	GWNBK841	GWNBS079	GWNBS500	GWNBS810
	GWN0087N	GWNBK842	GWNBS080	GWNBS501	GWNBS811
	GWN00DGK	GWNBK843	GWNBS081	GWNBS502	GWNBS812
	GWN00DGL	GWNBK844	GWNBS157	GWNBS609	GWNBS813
	GWNBJ992	GWNBK952	GWNBS158	GWNBS610	GWNBS814
	GWNBK667	GWNBK953	GWNBS159	GWNBS611	GWNBS910
	GWNBK674	GWNBK954	GWNBS160	GWNBS612	GWNBS911
	GWNBK675	GWNBK955	GWNBS266	GWNBS613	GWNBS912
	GWNBK743	GWNBK956	GWNBS267	GWNBS614	GWNBS914
	GWNBK744	GWNBK957	GWNBS268	GWNBS721	GWNBS915
	GWNBK751	GWNBK958	GWNBS269	GWNBS722	GWNBS982
	GWNBK752	GWNBK959	GWNBS270	GWNBS723	GWNBS983
1844M90G02	GWN00C2T	GWN01C5N	GWN02N8D	GWN03RTM	GWN04E21
	GWN00C2V	GWN01GE2	GWN02T3R	GWN03RTP	GWN04GHT
	GWN00G2N	GWN01GE3	GWN02WGM	GWN040RL	GWN04GHW
	GWN00G2P	GWN01GE4	GWN0311K	GWN040RM	GWN04GJ0
	GWN00PFP	GWN01GE6	GWN035PP	GWN040RN	GWN04JW6
	GWN00PFR	GWN01WH1	GWN038TD	GWN040RP	GWN04JW7
	GWN00T2N	GWN02688	GWN039TG	GWN04202	GWN04JW8
	GWN00YHV	GWN02689	GWN03G2R	GWN0435W	GWN04L7K
	GWN0125G	GWN0268A	GWN03G2W	GWN04360	GWN04L7L
	GWN0125H	GWN02DP2	GWN03G30	GWN04361	GWN04MT7
	GWN0166K	GWN02DP3	GWN03JPC	GWN04362	GWN04MT8
	GWN01C5K	GWN02F9F	GWN03JPD	GWN04ATG	GWNBS984
	GWN01C5L	GWN02F9G	GWN03N8P	GWN04ATH	
	GWN01C5M	GWN02L9T	GWN03N8R	GWN04E20	

(2) For all HPC stage 8–10 spools, P/N 1694M80G04, 1844M90G01, or 1844M90G02, perform an ECI of the stage 8 aft web upper face of the HPC stage 8–10 spool at each shop visit.

(3) Remove from service any HPC stage 8–10 spool that fails the inspection required by paragraphs (e)(1) or (e)(2) of this AD, and replace with a spool eligible for installation.

(f) Installation Prohibition

After the effective date of this AD, do not re-install into any engine, any HPC stage 8–10 spool, P/Ns 1694M80G04, 1844M90G01, or 1844M90G02, unless the spool has passed an ECI of the stage 8 aft web upper face as specified in paragraph (e)(1) or (e)(2) of this AD.

(g) Definition

For the purpose of this AD, an engine shop visit is the induction of an engine into the shop for maintenance during which the compressor discharge pressure seal face is exposed.

(h) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(i) Related Information

For more information about this AD, contact John Frost, Aerospace Engineer, Engine Certification Office, FAA, 1200 District Avenue, Burlington, MA 01803;

phone: 781–238–7756; fax: 781–238–7199; email: *john.frost@faa.gov*.

(j) Material Incorporated by Reference

None.

Issued in Burlington, Massachusetts, on June 15, 2016.

Colleen M. D'Alessandro,

Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2016–14474 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–8304; Airspace Docket No. 15–AEA–15]

Amendment of Class D and Class E Airspace; Charlottesville, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E Airspace Designated as an Extension to a Class D at Charlottesville-Albemarle Airport, Charlottesville, VA, as the Azalea Park Non-Directional Radio Beacon (NDB) has been decommissioned requiring airspace reconfiguration at the airport. Also, the Notice to Airmen (NOTAM) part time status is removed from this airspace. This action also updates the geographic coordinates of the above airport and the University of Virginia Medical Center Heliport in Class D and E airspace listed in this final rule. This action enhances the safety and management of Instrument Flight Rules (IFR) operations in the area.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class D and Class E airspace at Charlottesville-Albemarle Airport, Charlottesville, VA.

History

On March 28, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend Class D airspace, Class E Surface Area Airspace, Class E Airspace Designated as an Extension to a Class D, and Class E airspace extending upward from 700 feet above the surface at Charlottesville-Albemarle Airport, Charlottesville, VA (81 FR 17118). The Azalea Park NDB has been decommissioned requiring airspace reconfiguration at the airport. This action also to updates the geographic coordinates of the airport and University of Virginia Medical Center Heliport, and eliminates the NOTAM information that reads, "This Class E airspace area is effective during the specific dates and time established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory" from the regulatory text of the Class E airspace designated as an extension to Class D at Charlottesville-Albemarle Airport, Charlottesville, VA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraphs 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 amends Class D airspace, Class E Surface Area Airspace, Class E Airspace Designated as an Extension to a Class D, and Class E airspace extending upward from 700 feet above the surface at Charlottesville-Albemarle Airport, Charlottesville, VA. The Azalea Park NDB has been decommissioned requiring airspace reconfiguration at the airport. This action also updates the geographic coordinates of the airport and University of Virginia Medical Center Heliport, and eliminates the NOTAM information that reads, "This Class E airspace area is effective during the specific dates and time established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory" from the regulatory text of the Class E airspace designated as an extension to Class D at Charlottesville-Albemarle Airport, Charlottesville, VA.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AEA VA D Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface to and including 3,100 MSL within a 4.2-mile radius of the Charlottesville-Albemarle Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6002 Class E Surface Area Airspace.

* * * * *

AEA VA E2 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface within a 4.2-mile radius of Charlottesville-Albemarle Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D Surface Area.

* * * * *

AEA VA E4 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)

That airspace extending upward from the surface within 2.2 miles each side of the 202° bearing from Charlottesville-Albemarle Airport extending from the 4.2-mile radius to 6-miles southwest of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA VA E5 Charlottesville, VA [Amended]

Charlottesville-Albemarle Airport, VA
(Lat. 38°08′23″ N., long 78°27′08″ W.)
University of Virginia Medical Center Heliport
(Lat. 38°01′52″ N., long 78°29′54″ W.)

That airspace extending upward from 700 feet above the surface within a 6.8-mile radius of Charlottesville-Albemarle Airport, and within a 6-mile radius of the University of Virginia Medical Center Heliport.

Issued in College Park, Georgia, on June 16, 2016.

Debra L. Hogan,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14881 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2015–5800; Airspace Docket No. 15–AGL–21]

Establishment of Class E Airspace; Lisbon, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace in Lisbon, ND. Controlled airspace is necessary to accommodate new Area Navigation (RNAV) Standard Instrument Approach Procedures at Lisbon Municipal Airport. The FAA is taking this action to enhance the safety and management of Instrument Flight Rule (IFR) operations at the airport.

DATES: Effective 0901 UTC, September 15, 2016. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/airtraffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Raul Garza, Jr., Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone: (817) 222–5874.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Lisbon Municipal Airport, Lisbon, ND.

History

On February 17, 2016, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to establish Class E Airspace in the

Lisbon, ND area. (81 FR 8026) Docket No. FAA–2015–5800. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9Z dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.9Z, airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lisbon Municipal Airport, Lisbon, ND, to accommodate new RNAV standard instrument approach procedures. Controlled airspace is needed for the safety and management of IFR operations at the airport.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures," paragraph 5–6.5. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exists that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120, E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL ND E5 Lisbon, ND [New]

Lisbon Municipal Airport, ND
(Lat. 46°26′49″ N., long. 097°43′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Lisbon Municipal Airport.

Issued in Fort Worth, TX, on June 15, 2016.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2016–14873 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Docket No. SSA–2016–0019]

RIN 0960–AI02

Extension of Effective Date for Temporary Pilot Program Setting the Time and Place for a Hearing Before an Administrative Law Judge

AGENCY: Social Security Administration.

ACTION: Final rule.

SUMMARY: We are extending for one year our pilot program that authorizes the agency to set the time and place for a hearing before an administrative law judge (ALJ). Extending the pilot program continues our commitment to improve the efficiency of our hearing process and to maintain a hearing process that results in accurate, high-quality decisions for claimants. The current pilot program will expire on August 12, 2016. In this final rule, we are extending the effective date to August 11, 2017. We are making no other changes.

DATES: This final rule is effective June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Maren Weight, Social Security Administration, 5107 Leesburg Pike, Falls Church, VA 22041–3260, 703–605–7100 for information about this final rule. For information on eligibility for filing for benefits, call our national toll-free number, 1–800–772–1213 or TTY 1–800–325–0778, or visit our Internet site, Social Security Online, at *http://www.socialsecurity.gov.*

SUPPLEMENTARY INFORMATION:

Background

Over the past several years, one of our highest priorities has been to improve the efficiency of our hearing process for the Old Age, Survivors, and Disability Insurance (OASDI) programs under title II of the Social Security Act (Act) and the Supplemental Security Income (SSI) program under title XVI of the Act. We began a pilot program in July 2010 (75 FR 39154), under which the agency, rather than the ALJ, may set the time and place of the hearing under certain circumstances. Because we expect to continue to face significant challenges in dealing with the historically large number of hearing requests, we must maintain programs and policies that can provide us with the flexibility we need to improve the efficiency of our hearing process.

When we published a final rule on July 8, 2010, authorizing the agency to set the time and place for a hearing before an ALJ, we explained that we would implement our authority as a temporary pilot program. (75 FR 39154). Therefore, we included in sections 404.936(h) and 416.1436(h) of the final rule a provision that the pilot program would end on August 9, 2013, unless we decided to either terminate the program earlier, or extend it beyond that date by publication of a final rule in the **Federal Register**. Most recently, on July 2, 2015, we extended the expiration date until August 12, 2016. (80 FR 37970).

Explanation of Extension

During the pilot program, we tracked ALJ productivity closely, working with ALJs to addresss any concerns about our hearing process. We are continuing to work with ALJs who do not promptly schedule their hearings, and we are using a variety of authorties available to correct these situations. To date, our efforts have been largely successful. We are retaining this authority in our regulations to provide us with the flexibility we need to manage the hearing process appropriately.

During this extension of the pilot program, we will continue to monitor the productivity of ALJs and to work with our ALJs to address any concerns regarding our hearing process. Accordingly, we are extending our authority to set the time and place for a hearing before an ALJ for another year, until August 11, 2017. As before, we reserve the authority to end the program earlier, or to extend it by publishing a final rule in the **Federal Register**.

Regulatory Procedures

Justification for Issuing Final Rule Without Notice and Comment

We follow the Administrative Procedure Act (APA) rulemaking procedures specified in 5 U.S.C. 553 when developing regulations. (Section 702(a)(5) of the Social Security Act, 42 U.S.C. 902(a)(5)). Generally, the APA requires that an agency provide prior notice and opportunity for public comment before issuing a final rule. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures because they are impracticable, unnecessary, or contrary to the public interest. We have determined that good cause exists for dispensing with the notice and public comment procedures for this rule. (5 U.S.C. 553(b)(3)(B)). This final rule only extends the date on which the pilot program will no longer be effective. It makes no substantive changes to our rules. Our current regulations expressly provide that we may extend the expiration date of the pilot program by notice of a final rule in the **Federal Register**. Therefore, we have determined that opportunity for prior comment is unnecessary, and we are issuing this rule as a final rule.

In addition, for the reasons cited above, we find good cause for dispensing with the 30-day delay in the effective date of this final rule. (5 U.S.C. 553(d)(3)). We are not making any substantive changes in our rules. Without an extension of the expiration date for the pilot program, we will not have the flexibility we need to ensure the efficiency of our hearing process. Therefore, we find it is in the public interest to make this final rule effective on the publication date.

Executive Order 12866 as Supplemented by Executive Order 13563

We consulted with the Office of Management and Budget (OMB) and determined that this final rule does not meet the criteria for a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, OMB did not review the final rule.

Regulatory Flexibility Act

We certify that this final rule will not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, the Regulatory Flexibility Act, as amended, does not require us to prepare a regulatory flexibility analysis.

Paperwork Reduction Act

These rules do not create any new or affect any existing collections and, therefore, do not require Office of Management and Budget approval under the Paperwork Reduction Act.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security—Disability Insurance; 96.002, Social Security—Retirement Insurance; 96.004, Social Security—Survivors Insurance; 96.006, Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, Disability benefits, Old-age, Survivors, and Disability Insurance, Reporting and recordkeeping requirements, Social Security.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Reporting and recordkeeping requirements, Supplemental Security Income (SSI).

Carolyn W. Colvin,
Acting Commissioner of Social Security.

For the reasons stated in the preamble, we are amending subpart J of part 404 and subpart N of part 416 of title 20 of the Code of Federal Regulations as set forth below:

PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950–)

Subpart J —[Amended]

■ 1. The authority citation for subpart J of part 404 continues to read as follows:

Authority: Secs. 201(j), 204(f), 205(a)–(b), (d)–(h), and (j), 221, 223(i), 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 401(j), 404(f), 405(a)–(b), (d)–(h), and (j), 421, 423(i), 425, and 902(a)(5)); sec. 5, Pub. L. 97–455, 96 Stat. 2500 (42 U.S.C. 405 note); secs. 5, 6(c)–(e), and 15, Pub. L. 98–460, 98 Stat. 1802 (42 U.S.C. 421 note); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 2. In § 404.936, revise the second sentence in paragraph (i) to read as follows:

§ 404.936 Time and place for a hearing before an administrative law judge.

* * * * *

(i) *Pilot program.* * * * These provisions will no longer be effective on August 11, 2017, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart N—[Amended]

■ 3. The authority citation for subpart N of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1631, and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1383, and 1383b); sec. 202, Pub. L. 108–203, 118 Stat. 509 (42 U.S.C. 902 note).

■ 4. In § 416.1436, revise the second sentence in paragraph (i) to read as follows:

§ 416.1436 Time and place for a hearing before an administrative law judge.

* * * * *

(i) *Pilot program.* * * * These provisions will no longer be effective on August 11, 2017, unless we terminate them earlier or extend them beyond that date by notice of a final rule in the **Federal Register**.

[FR Doc. 2016–14974 Filed 6–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2016–0580]

Special Local Regulations; North Charleston Fireworks Display

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the North Charleston Fireworks Special Local Regulation from 8:45 p.m. through 10:15 p.m. on July 4, 2016. This action is necessary to ensure safety of life on navigable waters of the United States during the Fourth of July Fireworks Displays. During the enforcement period, and in accordance with previously issued special local regulations, vessels may not enter, transit through, anchor in, or remain within the designated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: The regulation for the City of North Charleston Fireworks under COTP Zone Charleston in 33 CFR 100.701, Table 1, will be enforced from 8:45 p.m. through 10:15 p.m. on July 4, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation for the North Charleston Fireworks Display in 33 CFR 100.701 Table 1 from 8:45 p.m. through 10:15 p.m. on July 4, 2016.

On July 4, 2016, South Carolina; The City of North Charleston is sponsoring the North Charleston Fireworks on the Charleston Harbor, South Carolina.

Under the provisions of 33 CFR 100.701, all persons and vessels are prohibited from entering the regulated areas unless permission to enter has been granted by the Captain of the Port Charleston or designated representatives. This action is to provide enforcement action of regulated area that will encompass portions of the navigable waterways. Spectator vessels may safely transit outside the regulated areas, but may not anchor, block, loiter in, or impede the transit of official patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing these regulations.

This notice of enforcement is issued under authority of 33 CFR 100.701 and 5 U.S.C. 552(a).

The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. If the COTP Charleston determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 20, 2016.

G.L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–14986 Filed 6–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket Number USCG–2016–0185]

RIN 1625–AA08

Special Local Regulation; Beaufort Water Festival, Beaufort, SC

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a special local regulation on the waters of the Beaufort River, Beaufort, South Carolina, during the Beaufort Water Festival on July 23, 2016. This special local regulation is necessary to ensure safety of life on navigable waters of the United States during the Beaufort Water Festival Air Show. This regulation prohibits persons and vessels from being in the regulated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: This rule is effective on July 23, 2016 from noon through 5:00 p.m.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–0185 in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions about this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone (843) 740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
NPRM	Notice of Proposed Rulemaking
§	Section
U.S.C.	United States Code
COTP	Captain of the Port

II. Background Information and Regulatory History

On March 3, 2016, the Coast Guard received a marine event application for the 2016 Beaufort Water Festival Air Show that will take place from noon to 5 p.m. on July 23, 2016. In response, on May 16, 2016, the Coast Guard published a notice of proposed rulemaking titled Special Local Regulation; Beaufort Water Festival, Beaufort, SC. There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this special local regulation. During the comment period that ended June 15, 2016, we received no comments.

III. Legal Authority and Need for Rule

The legal basis for the rule is the Coast Guard's authority to establish special local regulations: 33 U.S.C. 1233. The purpose of the rule is to insure safety of life on navigable waters of the United States during Beaufort Water Festival Air Show.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published May 16, 2016. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM. On July 23, 2016 from noon to 5 p.m. Approximately 100 spectator vessels are expected to attend the event. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843) 740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative. The Coast Guard will provide notice of the special local regulation by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a "significant regulatory action," under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget. This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

The economic impact of this rule is not significant for the following reasons: (1) The special local regulations will be enforced for only five hours; (2) although persons and vessels will not be able to enter, transit through, anchor, or remain within the regulated area without authorization from the Captain of the Port Charleston or a designated representative, they will be able to operate in the surrounding area during the enforcement periods; (3) persons and vessels will still be able to enter, transit through, anchor in, or remain within the regulated area if authorized by the Captain of the Port Charleston or a designated representative; and (4) the Coast Guard will provide advance notification of the regulated area to the local maritime community by Local Notice to Mariners and Broadcast Notice to Mariners.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owner or operators of vessels intending to enter, transit through, anchor in, or remain within the regulated area during the enforcement period. For the reasons discussed in Regulatory Planning and Review section above, this rule will not have a significant economic impact on a substantial number of small entities.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a special local regulation issued in conjunction with a regatta or marine parade. This rule is categorically excluded from further review under paragraph 34(h) of Figure 2–1 of the Commandant Instruction.

An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

PART 100— SAFETY OF LIFE ON NAVIGABLE WATERS

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233

■ 2. Add § 100.35T07–0185 to read as follows:

§ 100.35T07–0185 Special Local Regulations; Beaufort Water Festival, Beaufort, SC.

(a) *Regulated area.* This rule establishes a special local regulation on certain waters of the Beaufort River, Beaufort, South Carolina. The special local regulation will create a regulated area that will encompass a portion of the waterway that is 700 ft wide by 2600 ft in length on waters of the Beaufort River encompassed within the following points (all coordinates are North American Datum 1983): 32°25′ 47″ N./080°40′ 44″ W., 32°25′ 41″ N./080°40′ 14″ W., 32°25′ 35″ N./080°40′ 16″ W., 32°25′ 40″ N./080°40′ 46″ W.

(b) *Definition.* As used in this section, "designated representative" means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Charleston in the enforcement of the regulated areas.

(c) *Regulations.* (1) All persons and vessels, except those participating in the Beaufort Water Festival Airshow, or serving as safety vessels, are prohibited from entering, transiting through, anchoring, or remaining within the regulated area. Persons and vessels desiring to enter, transit through, anchor in, or remain within the regulated area may contact the Captain of the Port Charleston by telephone at (843)740–7050, or a designated representative via VHF radio on channel 16, to request authorization. If authorization to enter, transit through, anchor in, or remain within the regulated area is granted by the Captain of the Port Charleston or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Charleston or a designated representative.

(2) The Coast Guard will provide notice of the regulated area by Marine Safety Information Bulletins, Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives.

(d) *Enforcement period.* This rule will be enforced July 23, 2016 from noon until 5 p.m.

Dated: June 20, 2016.

G.L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–14985 Filed 6–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2016–0581]

Special Local Regulations; Patriots Point Fireworks Display

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the Patriots Point Fireworks Special Local Regulation from approximately 8:45 p.m. through 9:45 p.m. on July 4, 2016. This action is necessary to ensure safety of life on navigable waters of the United States during the Fourth of July fireworks displays. During the enforcement period, and in accordance with previously issued special local regulations, vessels may not enter, transit through, anchor in, or remain within the designated area unless authorized by the Captain of the Port Charleston or a designated representative.

DATES: The regulation for the Patriot Point Fireworks under COTP Zone Charleston in 33 CFR 100.701, Table 1, will be enforced from 8:45 p.m. through 9:45 p.m. on July 4, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Lieutenant John Downing, Sector Charleston Office of Waterways Management, Coast Guard; telephone 843–740–3184, email *John.Z.Downing@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the special local regulation for the Patriots Point Fireworks Display in 33 CFR 100.701 Table 1 from 8:45 p.m. through 9:45 p.m. on July 4, 2016.

On July 4, 2016, South Carolina; Patriots Point Naval Maritime Museum is sponsoring the Patriots Point Fireworks on the navigable waters of Charleston, South Carolina.

Under the provisions of 33 CFR 100.701, all persons and vessels are prohibited from entering the regulated areas unless permission to enter has been granted by the Captain of the Port Charleston or designated representatives. This action is to provide enforcement action of regulated area that will encompass portions of the navigable waterways. Spectator vessels may safely transit outside the regulated areas, but may not anchor, block, loiter in, or impede the transit of official patrol vessels. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing these regulations.

This notice of enforcement is issued under authority of 33 CFR 100.701 and 5 U.S.C. 552(a). The Coast Guard will provide notice of the regulated area by Local Notice to Mariners, Broadcast Notice to Mariners, and on-scene designated representatives. If the COTP Charleston determines that the regulated area need not be enforced for the full duration stated in this publication, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the regulated area.

Dated: June 20, 2016.

G.L. Tomasulo,

Captain, U.S. Coast Guard, Captain of the Port Charleston.

[FR Doc. 2016–14987 Filed 6–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0387]

Eighth Coast Guard District Annual Safety Zones; Upper Ohio Valley Italian Festival; Ohio River Mile 90.0 to 90.5; Wheeling, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Upper Ohio Valley Italian Festival Fireworks on the Ohio River in Wheeling, WV from mile 90.0 to 90.5, extending the entire width of the river, on July 23, 2016. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with a land-based fireworks display. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 15, will be enforced from 9 p.m. until 10:30 p.m. on July 23, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zone for the annual Upper Ohio Valley Italian Festival Fireworks listed in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 15 from 9 p.m. to 10:30 p.m. on July 23, 2016. This safety zone extends from mile 90.0 to 90.5 on the Ohio River in Wheeling, WV. This action is being taken to provide for the safety of life on navigable waterways during the fireworks display. Entry into the safety zone is prohibited unless authorized by the COTP or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

L. Mcclain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

[FR Doc. 2016–14899 Filed 6–23–16; 8:45 am]

BILLING CODE P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0382]

Safety Zones; Recurring Events in Captain of the Port Boston Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce the safety zones in the Captain of the Port Boston Zone on the specified dates and times listed below. This action is necessary to ensure the protection of the maritime public and event participants from the hazards associated with this annual recurring event. Under the provisions of our regulations, no person or vessel, except for the safety vessels assisting with the event may enter the safety zones unless given permission from the COTP or the designated on-scene representative. The Coast Guard may be assisted by other Federal, State, or local law enforcement agencies in enforcing this regulation.

DATES: The regulations in 33 CFR 165.118 will be enforced for the safety zones identified in the **SUPPLEMENTARY INFORMATION** section below for the dates and times specified.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email Mr. Mark Cutter, Coast Guard Sector Boston Waterways Management Division, telephone 617–223–4000, email *Mark.E.Cutter@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.118 on the specified dates and times as indicated in Table 1 below. This regulation was published in the **Federal Register** on November 8, 2013 (78 FR 67028).

TABLE 1

6.3 Surfside Fireworks	• Event Type: Fireworks Display. • Sponsor: Salisbury Beach Partnership and Chamber of Commerce. • Date: Every Saturday from June 25, 2016 through September 3, 2016. • Time: 9:00 p.m. to 11:00 p.m. • Location: All waters of the Atlantic Ocean near Salisbury Beach, MA, within a 350-yard radius of the fireworks barge located at position 42°50.6′ N., 070°48.4′ W. (NAD 83).
6.4 Cohasset Triathlon	• Event Type: Swim. • Sponsor: Streamline Events. • Date: June 26, 2016. • Time: 7:00 a.m. to 9:00 a.m. • Location: All waters in the vicinity of Cohasset Harbor around Sandy Beach, within the following points (NAD 83): 42°15.6′ N., 070°48.1′ W. 42°15.5′ N., 070°48.1′ W. 42°15.4′ N., 070°47.9′ W. 42°15.4′ N., 070°47.8′ W.
6.5 Hull Youth Football Carnival Fireworks.	• Event Type: Fireworks Display. • Sponsor: Hull Youth Football. • Date: June 18, 2016. • Time: 9:30 p.m. to 10:30 p.m. • Location: All waters within a 450-foot radius of the fireworks barge located approximately 500 feet of off Nantasket Beach, Hull MA located at position 42°16.6′ N., 070°51.7′ W. (NAD 83).
7.18 Charles River 1-Mile Swim.	• Event Type: Swim. • Sponsor: Charles River Swimming Club, Inc. • Date: June 11th, 2016. • Time: 7:30 a.m. to 9:30 a.m.

TABLE 1—Continued

	Location: All waters of Charles River between the Longfellow Bridge and the Harvard Bridge within the following points (NAD 83): 42°21.7′ N., 071°04.8′ W. 42°21.7′ N., 071°04.3′ W. 42°22.2′ N., 071°07.3′ W. 42°22.1′ N., 070°07.4′ W.

This notice is issued under authority of 33 CFR 165.118 and 5 U.S.C. 552 (a). In addition to this notice in the **Federal Register**, the Coast Guard will provide notification of these enforcement periods via the Local Notice to Mariners and Broadcast Notice to Mariners.

Dated: June 10, 2016.

C.C. Gelzer,

Captain, U.S. Coast Guard, Captain of the Port Boston.

[FR Doc. 2016–14783 Filed 6–23–16; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2016–0388]

Eighth Coast Guard District Annual Safety Zones; Wheeling Heritage Port Festival; Ohio River Mile 90.2 to 90.7; Wheeling, WV

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a safety zone for the Wheeling Heritage Port Festival Fireworks on the Ohio River, in Wheeling, WV from mile 90.2 to 90.7, extending the entire width of the river on September 17, 2016. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with a barge-based fireworks display. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

DATES: The regulations in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 60, will be enforced from 10 p.m. until 11:30 p.m., on September 17, 2016.

FOR FURTHER INFORMATION CONTACT: If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the Safety Zone for the annual Wheeling Heritage Port Sternwheel Festival Fireworks listed in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 60, from 10 p.m. to 11:30 p.m. on September 17, 2016. This safety zone extends from mile 90.2 to 90.7 on the Ohio River in Wheeling, WV. This action is being taken to provide for the safety of life on navigable waterways during the fireworks display. Entry into the safety zone is prohibited unless authorized by the COTP or a designated representative. Persons or vessels desiring to enter into or passage through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice of enforcement in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

L. Mcclain, Jr.,

Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.

[FR Doc. 2016–14900 Filed 6–23–16; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0420; FRL–9946–62]

Bacillus Amyloliquefaciens Strain PTA–4838; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of the *Bacillus amyloliquefaciens* strain PTA–4838 on all food commodities when applied or used as a fungicide, nematocide, or plant growth regulator. LidoChem, Inc. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of *Bacillus amyloliquefaciens* strain PTA–4838.

DATES: This regulation is effective June 24, 2016. Objections and requests for hearings must be received on or before August 23, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0420, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Robert McNally, Director, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *BPPDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial

Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0420 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before August 23, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0420, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Background and Statutory Findings

In the **Federal Register** of August 26, 2015 ([80] FR 51759) (FRL–9931–74), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide tolerance petition (PP [4F8317]) by LidoChem, Inc., 20 Village Ct., Hazlet, NJ 07730. The petition requested that 40 CFR part 180 be amended by establishing an exemption from the requirement of a tolerance for residues of *Bacillus amyloliquefaciens* strain PTA–4838. That document referenced a summary of the petition prepared by the petitioner LidoChem, Inc., which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement for a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Pursuant to FFDCA section 408(c)(2)(B), in establishing or maintaining in effect an exemption from the requirement of a tolerance, EPA must take into account the factors set forth in FFDCA section 408(b)(2)(C), which require EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . ." Additionally, FFDCA section 408(b)(2)(D) requires that the Agency consider "available information concerning the cumulative effects of a particular pesticide's residues" and "other substances that have a common mechanism of toxicity."

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. First, EPA determines the toxicity of pesticides. Second, EPA examines exposure to the pesticide through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings.

III. Toxicological Profile

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability, and the relationship of this information to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Bacillus amyloliquefaciens is a gram positive non-pathogenic bacterium which is commonly found in the air, water, soil, and on plants. *Bacillus amyloliquefaciens* is ubiquitous in the environment, especially in soils and agricultural environments all over the world.

Bacillus amyloliquefaciens was previously classified as *Bacillus subtilis* var. *amyloliquefaciens.* (Ref 1). *B. subtilis* var. *amyloliquefaciens* is used to produce proteolytic enzymes for laundry detergents, is used in broiler feed as a probiotic, and produces chitinase, protease, and lipases which suppress fungi and nematodes. It has also been reported as having plant growth regulator activity. *Bacillus subtilis* sp. are known to cause spoilage in dough, and are rarely found to cause food poisoning (Ref. 2).

Between 1990–1996 ten different foods have been associated with *B. subtilis* foodborne illness outbreaks, other infrequent cases have been reported as well (Ref. 3), but no reported foodborne illnesses have been associated with *Bacillus amyloliquefaciens* or *Bacillus amyloliquefaciens* PTA–4838. *Bacillus amyloliquefaciens* infections have only been associated with amylosin producing strains and presence of other pathogens isolated from indoor dust in water damaged buildings (Ref. 3), and infections have not been associated with any dietary consumption. The production of amylosin has not been reported with *Bacillus amyloliquefaciens* PTA–4838 strain, and the acute pulmonary toxicity pathogenicity studies show no signs of toxicity or pathogenicity for this strain.

Thus, *Bacillus amyloliquefaciens* PTA–4838 strain is not considered a risk for infection.

Acute oral, pulmonary, and injection toxicity/pathogenicity testing of *Bacillus amyloliquefaciens* strain PTA–4838 has shown that it is not toxic or pathogenic. Specific information on the studies received and other available information concerning potential effects of *Bacillus amyloliquefaciens* strain PTA–4838 can be found at *http://www.regulations.gov* in the document titled "Registration Decision for the New Active Ingredient *Bacillus amyloliquefaciens strain PTA-4838*" in this docket ID number EPA–HQ–OPP–2015–0420. (Ref. 4).

As no adverse effects have been observed in the available data for *Bacillus amyloliquefaciens* strain PTA–4838, the Agency has not identified any points of departure for conducting a quantitative assessment of *Bacillus amyloliquefaciens* strain PTA–4838. Consequently, the Agency conducted a qualitative assessment.

IV. Aggregate Exposures

In examining aggregate exposure, FFDCA section 408 directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures, including drinking water from ground water or surface water and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor uses).

A. Dietary Exposure

1. *Food. Bacillus amyloliquefaciens* is ubiquitous in the environment, especially in soils and agricultural environments, so dietary exposure to background levels of the naturally occurring microbe are already occurring. *B. subtilis* and *B. amyloliquefaciens* are considered GRAS food additives and the FDA has estimated that dietary exposure of *B. subtilis* and *B. amyloliquefaciens* by the U.S. population is 200 mg/day (Ref. 5). Similar *Bacillus subtilis* strains are used in the production of food grade products and in fermented foods in Japan and Thailand. Dietary exposure via crop residues from pesticidal uses will be much lower based on maximum application rates. Further, the product containing *Bacillus amyloliquefaciens* PTA–4848 is not toxic or pathogenic and is not expected to cause adverse health effects, and has not been connected to any illnesses.

2. *Drinking water exposure. Bacillus amyloliquefaciens* is naturally present in soils; therefore, *Bacillus amyloliquefaciens* may occur in surface water and possibly groundwater. According to the World Health Organization, *Bacillus* species are often detected in drinking water even after going through acceptable water treatment processes, mostly because the spores are resistant to municipal water treatment measures. Should this microbial pesticide be present, no adverse effects are expected from exposure to *Bacillus amyloliquefaciens* through drinking water (Ref. 6), based on the results outlined in the Toxicological Profile Section.

B. Other Non-Occupational Exposure

The pesticide use of *Bacillus amyloliquefaciens* PTA–4838 except during application right before harvest, as proposed, does not increase in a significant way the potential for non-dietary, non-occupational exposure to its residues for the general population, including infants and children, because *Bacillus amyloliquefaciens* is ubiquitous in the environment and because populations have been previously exposed to background levels of the microbe. Children are not expected to have any incidental exposure at levels above what they are naturally exposed to already. Human exposure to *Bacillus subtilis* and *Bacillus amyloliquefaciens* in food grade products or fermented foods have not resulted in any reports of infection. As previously mentioned *Bacillus subtilis* and *Bacillus amyloliquefaciens* dietary exposure is reported as 200 mg/per person per day in the U.S. (Ref. 5). Any additional exposure to *Bacillus amyloliquefaciens* PTA–4838 resulting from residues from pesticidal use and residential homeowner applications will not result in additional aggregate non occupational risk, since no acute oral, pulmonary, and injection toxicity or pathogenicity hazard exists.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

B. amyloliquefaciens strain PTA–4838 does not share a common mechanism of toxicity with any other substances, since it is not toxic via the oral, dermal, or inhalation routes of exposure. For the purposes of this tolerance action, therefore, EPA has assumed that *Bacillus amyloliquefaciens* strain PTA–4838 does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

VI. Determination of Safety for U.S. Population, Infants and Children

A. U.S. Population

Although there is likely to be dietary and non-occupational exposure to *Bacillus amyloliquefaciens* strain PTA–4838, the Agency concludes that there is reasonable certainty that no harm will result to the U.S. population, including infants and children, from aggregate exposure to residues of *Bacillus amyloliquefaciens* strain PTA–4838 because of the lack of any toxicity, infectivity, and pathogenicity of this microbe. This includes all anticipated dietary exposures and all other exposures for which there is reliable information.

B. Infants and Children

FFDCA section 408(b)(2)(C) provides that the EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure, unless the EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor. In applying this provision, the EPA either retains the default value of 10X or uses a different additional safety factor when reliable data available to the EPA support the choice of a different factor.

As discussed above, EPA has concluded that *Bacillus amyloliquefaciens* strain PTA–4838 is not toxic, pathogenic, or infective to mammals, including infants and children. Because there are no threshold levels of concern to infants, children, and adults when *Bacillus amyloliquefaciens* strain PTA–4838 is used according to label directions and good agricultural practices, EPA concludes that no additional margin of safety is necessary to protect infants and children.

VII. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

VIII. Conclusions

Therefore, an exemption is established for residues of *Bacillus amyloliquefaciens* strain PTA–4838 on all food commodities.

IX. References

1. Priest, F., Goodfellow, M., Shute, L., and Berkeley, R. 1987. "*Bacillus amyloliquefaciens* sp. nom., nom. rev." *International Journal of Systematic Bacteriology*. 37: 69–71. *http://ijs.sgmjournals.org/content/37/1/69.full.pdf*.
2. *https://microbewiki.kenyon.edu/index.php/Bacillus_subtilis*.
3. Apetroaie-Constantin, C., et al. (2009). "*Bacillus subtilis* and *B. mojavensis* strains connected to food poisoning produce the heat stable toxin amylosin." Journal of Applied Microbiology 106(6): 1976–1985.
4. Registration Decision for the New Active Ingredient *Bacillus amyloliquefaciens* strain PTA–4838, *http://www.regulations.gov*. Docket No. EPA–HQ–OPP–2015–0420.
5. *http://www.fda.gov/ohrms/dockets/98fr/042399a.txt*.
6. *https://www.gpo.gov/fdsys/pkg/FR-2012-01-06/pdf/2011-33846.pdf*, **Federal Register** (77 FR 745, January 6, 2012).

X. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory Planning and Review" (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, nor does it require any special considerations under Executive Order 12898, entitled "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations" (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the exemption in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: June 1, 2016.

Jack E. Housenger,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Section 180.1336 is added to subpart D to read as follows:

§ 180.1336 Bacillus amyloliquefaciens strain PTA–4838; exemption from the requirement of a tolerance.

An exemption from the requirement of a tolerance is established for residues of *Bacillus amyloliquefaciens* strain PTA–4838 in or on all food commodities.

[FR Doc. 2016–15006 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2016–0131; FRL 9947–04–Region 8]

South Dakota: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of South Dakota has applied to the Environmental Protection Agency (EPA) for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final action. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of State statutes and regulations that will be subject to the EPA's inspection and enforcement. This rule also codifies in the regulations the approval of South Dakota's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations.

DATES: This rule is effective on August 23, 2016 unless the EPA receives adverse written comment by July 25, 2016. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 23, 2016. If the EPA receives adverse comment, it will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2016–0131 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: cosentini.christina@epa.gov.*
3. *Fax:* (303) 312–6341 (prior to faxing, please notify the EPA contact listed below).
4. *Mail, Hand Delivery or Courier:* Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, Mailcode 8P–R, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Courier or hand deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–RCRA–2016–0131. EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov,* or email. The federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at: EPA Region 8, from 8 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Christina Cosentini, phone number (303) 312–6231, or the South Dakota Department of Environmental and Natural Resources, from 9 a.m. to 5 p.m., Joe Foss Building, 523 East Capitol Avenue, Pierre, South Dakota 57501, contact: Carrie Jacobson, phone number (605) 773–3153. The public is advised to call in advance to verify business hours.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202; phone number (303) 312–6231; Email address: *cosentini.christina@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to South Dakota's Hazardous Waste Program

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the federal program. As the federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. When states make other changes to their regulations, it is often appropriate for the states to seek authorization for the changes.

B. What decisions have we made in this rule?

We conclude that South Dakota's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant South Dakota final authorization to operate its hazardous waste program with the changes described in the authorization application. South Dakota has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA), for all areas within the State, except for (1) all lands located within formal Indian Reservations within or abutting the State of South Dakota, including the Cheyenne River Indian Reservation, Crow Creek Indian Reservation, Flandreau Indian Reservation, Lower Brule Indian Reservation, Pine Ridge Indian Reservation, Rosebud Indian Reservation, Standing Rock Indian Reservation, Yankton Indian Reservation; (2) any land held in trust by the United States for an Indian tribe; and (3) any other land, whether on or off a reservation that qualifies as "Indian country" within the meaning of 18 U.S.C. 1151. New federal requirements and prohibitions imposed by federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in South Dakota, including issuing permits, until South Dakota is authorized to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in South Dakota subject to RCRA will have to comply with the authorized State requirements instead of the equivalent federal requirements in order to comply with RCRA. South Dakota has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and,
- Take enforcement actions regardless of whether South Dakota has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which South Dakota is being authorized by this direct action are already effective under State law and are not changed by this action.

D. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to authorize the State program changes if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

E. What happens if EPA receives comments opposing this action?

If the EPA receives comments that oppose this authorization, we will address all public comments in a later **Federal Register**. You will not have another opportunity to comment, therefore, if you want to comment on this action, you must do so at this time.

F. For what has South Dakota previously been authorized?

South Dakota initially received final authorization on October 19, 1984, effective November 2, 1984 (49 FR 41038) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on: April 17, 1991, effective June 17, 1991 (56 FR 15503); September 8, 1993, effective November 8, 1993 (FR 47216); January 10, 1994, effective March 11, 1994 (59 FR 1275); July 24, 1996, effective September 23, 1996 (61 FR 38392); May 9, 2000, effective June 8, 2000 (65 FR 26755); April 23, 2004, effective May 24, 2004 (69 FR 21962); March 8, 2006, effective March 8, 2006 (71 FR 11533); and August 8, 2012, effective August 8, 2012 (77 FR 47302).

G. What changes are we authorizing with this action?

South Dakota submitted a final complete program revision application on May 12, 2015, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that South Dakota's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant South Dakota final authorization for the following program changes:

1. Program Revision Changes for Federal Rules

The State of South Dakota revisions consist of regulations which specifically govern Federal hazardous waste revisions promulgated from July 1, 2007 through June 30, 2012 (RCRA Clusters XVIII–XXII), except for the final rules published on January 2, 2008 (73 FR 57; Checklist 216), October 30, 2008 (73 FR 64668, Checklist 219); December 19, 2008 (73 FR 77954, Checklist 221); January 8, 2010 (75 FR 1236, Checklist 222); and June 15, 2010 (75 FR 33712, Checklist 224). The State requirements from its Hazardous Waste Rules, Administrative Rules of South Dakota (ARSD), Article 74:28, effective October 10, 2013, are included in the chart below.

Description of federal requirement	**Federal Register** date and page	Analogous state authority
1. NESHAP: Final Standards for Hazardous Waste Combustors (Phase I Final Replacement Standards and Phase II) Amendments (Checklist 217).	73 FR 18970; 8/8/08	ARSD 74:28:25–01 and 74:28:27:01.
2. F019 Exemption for Wastewater Treatment Sludges from Auto Manufacturing Zinc Phosphating Processes (Checklist 218).	73 FR 31756; 6/4/08	ARSD 74:28:22:01.
3. Academic Laboratories Generator Standards (Checklist 220).	73 FR 7291; 12/1/08	ARSD 74:28:22:01 and 74:28:23:01.
4. Hazardous Waste Technical Corrections and Clarifications (Checklist 223).	75 FR 12989; 3/18/10	ARSD 74:28:21:02, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01, 74:28:28:01, 74:28:27:01, 74:28:30:01, 74:28:26:01, and 74:28:23:01.
5. Removal of Saccharin and Its Salts from the Lists of Hazardous Constituents (Rule 225; No Federal checklist).	75 FR 78918; 12/17/10	ARSD 74:28:22:01 and 74:28:30:01.
6. Academic Laboratories Generator Standards Technical Corrections (Checklist 226).	75 FR 79304; 12/20/10	ARSD 74:28:23:01.
7. Revision of the Land Disposal Treatment Standards for Carbamate Wastes (Checklist 227).	76 FR 34147; 6/13/11	ARSD 74:28:30:01.
8. Hazardous Waste Technical Corrections and Clarifications Rule (Checklist 228).	77 FR 22229; 4/13/12	ARSD 74:28:22:01 and 74:28:27:01.

2. State-Initiated Changes

South Dakota has made amendments to its regulations that are not directly related to any of the federal rules addressed in Item G.1 above. These State-initiated changes are either conforming changes made to existing authorized provisions, or the adoption of provisions that clarify and make the State's regulations internally consistent. The State's regulations, as amended by these provisions, provide authority which remains equivalent to and no less stringent than the federal laws and regulations. These State-initiated changes are submitted under the requirements of 40 CFR 271.21(a) and include the following provisions from the Administrative Rules of South Dakota (ARSD 74:28), as amended, effective October 10, 2013: 74:28:21:01(1), 74:28:21:01(3), 74:28:21:01(6), 74:28:21:01(8), 74:28:21:01(11), 74:28:25:03, 74:28:25:04, 74:28:25:05, 74:28:28:03, 74:28:28:04, 74:28:28:05, and 74:36:11.01.

H. Where are the revised State rules different from the Federal rules?

South Dakota incorporates the Federal regulations by reference, thus making its hazardous waste program equivalent to the federal program in all areas. The State did not make any changes that are more stringent or broader-in-scope than the federal rules in this rulemaking. In addition, South Dakota did not change any previously more stringent or broader-in-scope provisions to be equivalent to the federal rules.

EPA will continue to implement certain federal requirements that the EPA cannot delegate to States. The requirements include: (1) Certain provisions in 40 CFR 261.39(a)(5) and 261.41 part 262, subparts E, F and H, part 263, subpart B, §§ 264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), and 265.71(d) regarding governmental oversight of exports and imports of hazardous waste; (2) manifest registry functions in 40 CFR parts 262, Subpart B; (3) 268.5, 268.6, 268.42(b), and 268.44(a)–(g) regarding land disposal restrictions; and (4) 279.82(b) regarding State petitions to allow use of used oil as a dust suppressant.

I. Who handles permits after the authorization takes effect?

South Dakota will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until South Dakota has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which South Dakota is not yet authorized.

J. How does this action affect Indian Country (18 U.S.C. 1151) in South Dakota?

This determination to approve South Dakota's RCRA program revisions applies to all activities in South Dakota outside of "Indian country," as that term is defined in 18 U.S.C. 1151, including:

1. All lands within the exterior boundaries of the following Indian reservations located within or abutting the State of South Dakota:
    a. Cheyenne River Indian Reservation;
    b. Crow Creek Indian Reservation;
    c. Flandreau Indian Reservation;
    d. Lower Brule Indian Reservation;
    e. Pine Ridge Indian Reservation;
    f. Rosebud Indian Reservation;
    g. Standing Rock Indian Reservation;
    h. Yankton Indian Reservation;
2. Any land held in trust by the United States for an Indian tribe; and,
3. Any other areas which are "Indian country" within the meaning of 18 U.S.C. 1151.

Under principles of Federal Indian law, states generally do not have authority to regulate in Indian country. *Ala.* v. *Native Vill. of Venetie Tribal Gov't.,* 522 U.S. 520 n.1 (1998). Accordingly, in the absence of an express grant of authority to a state from Congress, EPA typically excludes Indian country from program delegations and authorizations to states. *See* RCRA Authorization regulations at 40 CFR 271.1(h) ("[I]n many cases States will lack authority to regulate activities on Indian lands.").

Indian country is defined by federal statute, 18 U.S.C. 1151, as:

a. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;

b. all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and

c. all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.

It is important to note that the phrase "notwithstanding the issuance of any patent" in 18 U.S.C. 1151(a) has been interpreted by the U.S. Supreme Court to include fee patents (also known as land titles or land deeds) issued to Indians and non-Indians alike. *See, Seymour* v. *Superintendent,* 368 U.S. 351, 358 (1962). Accordingly, fee-owned lands, whether owned by Indians or nonmembers of the relevant Indian tribe, which are within the exterior boundaries of Indian reservations, are Indian country. While 18 U.S.C. 1151 on its face relates to criminal jurisdiction, the U.S. Supreme Court has held that it is also relevant for civil regulatory jurisdiction. *See, DeCoteau* v. *Dist. County Court,* 420 U.S. 425, 427 n.2 (1975).

In addition, tribal trust lands located outside of formal reservations are also Indian country as defined in 18 U.S.C. 1151. For a detailed legal discussion and explanation of this interpretation of Indian country, *see* Letter from Jack W. McGraw, Acting Regional Administrator, United States Environmental Agency, to Steven M. Pirner, Secretary, South Dakota Department of Environment and Natural Resources (April 2, 2002), printed in 67 FR 45684 through 45687 (July 10, 2002).

II. Incorporation by Reference

A. What is codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize State hazardous waste management programs. The State regulations authorized by the EPA supplant the federal regulations concerning the same matter with the result that after authorization EPA enforces the authorized regulations. Infrequently, State statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize State enforcement authorities and does not authorize State procedural requirements. The EPA codifies the authorized State program in 40 CFR part 272 and incorporates by reference State statutes and regulations that make up the approved program which is federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What is the history of the codification of South Dakota's hazardous waste management program?

The EPA incorporated by reference South Dakota's then authorized hazardous waste program effective March 8, 2006 (71 FR 11533). In this action, the EPA is revising Subpart QQ of 40 CFR part 272 to include the authorization revision actions described in this document.

C. What decisions have we made in this rule?

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the South Dakota rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through *http://www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

This action codifies the EPA's authorization of South Dakota's base hazardous waste management program and its revisions to that program. The codification reflects the State program that would be in effect at the time EPA's authorized revisions to the South Dakota hazardous waste management program addressed in this direct final rule become final. This action does not reopen any decision the EPA previously made concerning the authorization of the State's hazardous waste management program. The EPA is not requesting comments on its decisions published in the **Federal Register** documents referenced in Section I.F of this preamble concerning revisions to the authorized program in South Dakota.

The EPA is incorporating by reference EPA's approval of South Dakota's hazardous waste management program by amending Subpart QQ to 40 CFR part 272. The action amends section 272.2101 and incorporates by reference South Dakota's authorized hazardous waste regulations, as amended effective October 10, 2013. Section 272.2101 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, section 272.2101 references the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA.

D. What is the effect of South Dakota's codification on enforcement?

The EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized states. With respect to enforcement actions, the EPA will rely on federal sanctions, federal inspection authorities, and federal procedures rather than the State analogs to these provisions. Therefore, the EPA is not incorporating by reference South Dakota's inspection and enforcement authorities nor are those authorities part of South Dakota's approved State program which operates in lieu of the federal program. 40 CFR 272.2101(c)(2) lists these authorities for informational purposes, and because the EPA also considered them in determining the adequacy of South Dakota's procedural and enforcement authorities. South Dakota's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

E. What State provisions are not part of the codification?

The public is reminded that some provisions of South Dakota's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader in scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which South Dakota is not authorized, but which have been incorporated into the State regulations because of the way the State adopted federal regulations by reference.

(3) Federal rules for which South Dakota is authorized but which were vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 98–1379; June 27, 2014).

(4) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are "broader in scope" than the federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA lists in 40 CFR 272.2101(c)(3) the South Dakota statutory provisions which are "broader in scope" than the federal program and which are not part of the authorized program being incorporated by reference. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law.

South Dakota has adopted but is not authorized for certain federal final rules published between June 29, 1995 and June 15, 2010. Therefore, the federal amendments to 40 CFR parts 260, 261, 262, 263, 264, 265, 266, 268, 270 and 273 addressed by these Federal rules and included in South Dakota's adoption by reference at ARSD, sections 74:28:21:02, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01, 74:28:28:01, 74:28:27:01, 74:28:30:01, 74:28:26:01 and 74:28:33:01, respectively, are not part of the State's authorized program included in this codification. The EPA has identified in 40 CFR 272.2101(c)(4) those federal regulations which, while adopted by South Dakota, are not authorized by EPA.

F. What will be the effect of codification on Federal HSWA requirements?

With respect to any requirement(s) pursuant to HSWA for which the State has not yet been authorized, and which the EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. The EPA has authority to implement HSWA requirements in all states, including states with authorized hazardous waste management programs, until the states become authorized for such requirements or prohibitions, unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the federal program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent, supersedes any less stringent or inconsistent State provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing State requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those State requirements, EPA enforces the HSWA requirements and not the State analogs.

III. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective August 23, 2016.

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 11, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), EPA is granting final authorization under 40 CFR part 271 to the State of South Dakota for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Revise § 272.2101 to read as follows:

§ 272.2101 South Dakota State-administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), South Dakota has final authorization for the following elements as submitted to EPA in South Dakota's base program application for final authorization which was approved by EPA effective on November 2, 1984. Subsequent program revision applications were approved effective on June 17, 1991, November 8, 1993, March 11, 1994, September 23, 1996, June 8, 2000, May 24, 2004, March 8, 2006, August 8, 2012 and August 23, 2016.

(b) The State of South Dakota has primary responsibility for enforcing its hazardous waste management program. However, EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State Statutes and Regulations.* (1) The South Dakota regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.* This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the South Dakota regulations that are incorporated by reference in this paragraph from South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501, (Phone: (605) 773–3251). You may inspect a copy at EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, phone number (303) 312–

6231, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The Binder entitled "EPA-Approved South Dakota Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated February 2016.

(ii) [Reserved]

(2) EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) South Dakota Codified Laws (SDCL), as amended, 2013 Revision, Title 1, State Affairs and Government: Chapter 1–26, Administrative Procedures and Rules, sections 1–26–1(1), 1–26–1(4), 1–26–1(8) introductory paragraph, 1–26–1(8)(a), 1–26–2, 1–26–6.6, 1–26–16 through 1–26–19, 1–26–19.1, 1–26–19.2, 1–26–21, 1–26–27, 1–26–29, 1–26–30, 1–26–30.1, 1–26–30.2, 1–26–30.4, 1–26–31, 1–26–31.1, 1–26–31.2, 1–26–31.4, 1–26–35 and 1–26–36; Chapter 1–27, Public Records and Files, sections 1–27–1, 1–27–3, 1–27–9(2) and 1–27–28, 1–27–31; Chapter 1–32, Executive Reorganization, section 1–32–1(1); Chapter 1–40, Department of Natural Resources, sections 1–40–4.1, 1–40–24, 1–40–31 and 1–40–34.

(ii) SDCL, as amended, 2013 Revision, Title 15, Civil Procedure: Chapter 15–6, Rules of Procedure in Circuit Courts, section 15–6–24(a)-(c).

(iii) SDCL, as amended, 2013 Revision, Title 19, Evidence: Chapter 19–13, Privileges, sections 19–13–2(1), 19–13–2(5), 19–13–3, 19–13–20 and 19–13–22.

(iv) SDCL, as amended, 2013 Revision, Title 21, Judicial Remedies: Chapter 21–8, Injunction, section 21–8–1.

(v) SDCL, as amended, 2013 Revision, Title 22, Crimes: Chapter 22–6, Authorized Punishments, sections 22–6–1 introductory paragraph and 22–6–1(7).

(vi) SDCL, as amended, 2013 Revision, Title 23, Law Enforcement: Chapter 23–5, Criminal Identification, sections 23–5–1, 23–5–10(1), 23–5–10(3), 23–5–10(4) and 23–5–11 first sentence; Chapter 23–6, Criminal Statistics, section 23–6–4.

(vii) SDCL, as amended, 2013 Revision, Title 34, Public Health and Safety: Chapter 34–21, Radiation and Uranium Resources Exposure Control, section 34–21–2(7).

(viii) SDCL, as amended, 2013 Revision, Title 34A, Environmental Protection: Chapter 34A–6, Solid Waste Disposal, section 34A–6–1.3(17); Chapter 34A–10, Remedies for Protection of Environment, sections 34A–10–1, 34A–10–2, 34A–10–5, 34A–10–11, 34A–10–14 and 34A–10–16, Chapter 34A–11, Hazardous Waste Management, sections 34A–11–1, 34A–11–2 through 34A–11–4, 34A–11–5, 34A–11–8 through 34A–11–12, 34A–11–13 through 34A–11–16, 34A–11–17 through 34A–11–19, 34A–11–21 and 34A–11–22; Chapter 34A–12, Regulated Substance Discharges, sections 34A–12–1(8), 34A–12–4, 34A–12–6, 34A–12–8 through 34A–12–13, 34A–12–13.1 and 34A–12–14.

(ix) SDCL, as amended, 2013 Revision, Title 37, Trade Regulation, Chapter 37–29, Uniform Trade Secrets Act, section 37–29–1(4).

(x) Administrative Rules of South Dakota (ARSD), Article 74:08, Administrative Fees, effective October 10, 2013: Chapter 74:08:01, Fees for Records Reproduction, sections 74:08:01:01 through 74:08:01:07.

(3) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) SDCL, as amended, 2013 Revision, Title 34A, Environmental Protection, Chapter 34A–11, Hazardous Waste Management, sections 34A–11–12.1, 34A–11–16.1, 34A–11–25 and 34A–11–26.

(ii) [Reserved]

(4) *Unauthorized state amendments.* (i) South Dakota has adopted but is not authorized for the following federal final rules:

(A) Removal of Legally Obsolete Rules (HSWA/non-HSWA) [60 FR 33912, 06/29/95];

(B) Imports and Exports of Hazardous Waste: Implementation of OECD Council Division (HSWA—Not delegable to States) [61 FR 16290, 04/12/96];

(C) Clarification of Standards for Hazard Waste Land Disposal Restriction Treatment Variances (HSWA) [62 FR 64504, 12/05/97];

(D) Hazardous Waste Combustors; Revised Standards (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 98–1379; June 27, 2014) [63 FR 33782, 6/19/98];

(E) Vacatur of Organobromide Production Waste Listings (HSWA) [65 FR 14472, 03/17/00];

(F) National Environmental Performance Track Program (Non-HSWA—terminated by EPA (74 FR 22741, 5/14/09)) [69 FR 21737, 4/22/04; as amended by 69 FR 62217, 10/25/04 and 71 FR 16862, 4/4/06];

(G) Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 98–1379; June 27, 2014) [73 FR 52, 1/2/08];

(H) Revisions to the Definition of Solid Waste (Non-HSWA) [73 FR 64668, 10/30/08];

(I) OECD Requirements; Export Shipments of Spent Lead Acid Batteries (Non-HSWA—Not delegable to States) [75 FR 1236, 1/8/10]; and

(J) Withdrawal of the Emission Comparable Fuel Exclusion (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 98–1379; June 27, 2014) [75 FR 33712, 6/15/10].

(ii) Those federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not federally enforceable. In contrast, EPA will continue to enforce the Federal HSWA standards for which South Dakota is not authorized until the State receives specific authorization from the EPA.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between EPA Region 8 and the State of South Dakota, signed by the Secretary of the South Dakota Department of Natural Resources on December 14, 2015, and by the EPA Regional Administrator on February 18, 2016, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of legal authority.* "Attorney General's Statement for Final Authorization," signed by the Attorney General of South Dakota on May 24, 1984, and revisions, supplements and addenda to that Statement dated January 14, 1991, September 11, 1992, September 25, 1992, April 1, 1993, September 24, 1993, December 29, 1994, September 5, 1995, October 23, 1997, October 27, 1997, October 28, 1997, November 5, 1999, June 26, 2000, June 18, 2002, October 19, 2004, May 11, 2009 and May 5, 2015, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto,

although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to Part 272, is amended by revising the listing for "South Dakota" to read as follows:

Appendix A to Part 272–State Requirements

* * * * *

South Dakota

The regulatory provisions include:

Administrative Rules of South Dakota, Article 74:28, Hazardous Waste, effective October 10, 2013, sections 74:28:21:01, 74:28:21:02, 74:28:21:03, 74:28:22:01, 74:28:23:01, 74:28:24:01, 74:28:25:01 through 74:28:25:05, 74:28:26:01, 74:28:27:01, 74:28:28:01 through 74:28:28:05, 74:28:29:01, 74:28:30:01 and 74:28:33:01; Article 74:36, Air Pollution Control Program, as of June 25, 2013, section 74:36:11:01.

Copies of the South Dakota regulations that are incorporated by reference are available from South Dakota Legislative Research Council, 3rd Floor, State Capitol, 500 East Capitol Avenue, Pierre, South Dakota 57501, (Phone: (605) 773–3251).

* * * * *

[FR Doc. 2016–14298 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2016–0174; FRL–9947–06–Region 8]

Wyoming: Final Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The State of Wyoming has applied to Environmental Protection Agency (EPA) for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this direct final action. The EPA uses the regulations entitled "Approved State Hazardous Waste Management Programs" to provide notice of the authorization status of State programs and to incorporate by reference those provisions of State statutes and regulations that will be subject to the EPA's inspection and enforcement. This rule also codifies in the regulations the approval of Wyoming's hazardous waste management program and incorporates by reference authorized provisions of the State's regulations.

DATES: This rule is effective on August 23, 2016 unless the EPA receives adverse written comment by July 25, 2016. The incorporation by reference of certain publications listed in the rule is approved by the Director of the Federal Register as of August 23, 2016. If the EPA receives adverse comment, it will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2016–0174 by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: cosentini.christina@epa.gov.*
3. *Fax:* (303) 312–6341 (prior to faxing, please notify the EPA contact listed below).
4. *Mail, Hand Delivery or Courier:* Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, Mailcode 8P–R, 1595 Wynkoop Street, Denver, Colorado 80202–1129. Courier or hand deliveries are only accepted during the Regional Office's normal hours of operation. The public is advised to call in advance to verify business hours. Special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–R08–RCRA–2016–0174. The EPA's policy is that all comments received will be included in the public docket without change and may be available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *regulations.gov,* or email. The Federal *http://www.regulations.gov* Web site is an "anonymous access" system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at: EPA Region 8, from 8 a.m. to 4 p.m., 1595 Wynkoop Street, Denver, Colorado, contact: Christina Cosentini, phone number (303) 312–6231, or the Wyoming Department of Environmental Quality, from 9 a.m. to 5 p.m., Solid and Hazardous Waste Division, 200 W. 17th St., 2nd Floor, Cheyenne, Wyoming 82002. The public is advised to call in advance to verify business hours.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, 1595 Wynkoop Street, Denver, Colorado 80202; phone number (303) 312–6231; Email address: *cosentini.christina@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Authorization of Revisions to Wyoming's Hazardous Waste Program

A. Why are revisions to State programs necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, states must change their programs and ask the EPA to authorize the changes. Changes to state programs may be necessary when Federal or state statutory or regulatory authority is modified or when certain other changes occur. Most commonly, states must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273 and 279. When states make other changes to their regulations, it is often appropriate for the states to seek authorization for the changes.

B. What decisions have we made in this rule?

We conclude that Wyoming's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Wyoming final authorization to operate its hazardous waste program with the changes described in the authorization application. Wyoming has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs), and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA), for all areas within the State, except for "Indian country" as defined in 18 U.S.C. 1151.

New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized states before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Wyoming, including issuing permits, until Wyoming is authorized to do so.

C. What is the effect of this authorization decision?

The effect of this decision is that a facility in Wyoming subject to RCRA will have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Wyoming has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Conduct inspections and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements; suspend or revoke permits; and,
- Take enforcement actions regardless of whether Wyoming has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Wyoming is being authorized by this direct action are already effective under State law and are not changed by this action.

D. Why is the EPA using a direct final rule?

The EPA is publishing this rule without a prior proposal because we view this as a noncontroversial action and anticipate no adverse comment. However, in the "Proposed Rules" section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to authorize the State program changes if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

E. What happens if EPA receives comments opposing this action?

If the EPA receives comments that oppose this authorization, we will address all public comments in a later **Federal Register**. You will not have another opportunity to comment, therefore, if you want to comment on this action, you must do so at this time.

F. For what has Wyoming previously been authorized?

Wyoming initially received final authorization on October 4, 1995, effective October 18, 1995 (60 FR 51925) to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on February 25, 1999, effective August 6, 2001 (56 FR 15503); however, this authorization was subsequently withdrawn on April 23, 1999 (64 FR 19925) and re-issued with the initial effective date of August 6, 2001 (66 FR 40911).

After the 2001 authorization, the State of Wyoming repealed the existing text of the State's hazardous waste regulations and replaced it with text that incorporates by reference the Federal regulations in 40 CFR part 124, subparts A, B, and G, and parts 260 through 268, 270, 273, and 279 in the Wyoming Department of Environmental Quality Hazardous Waste Management Rules, Chapter 1, General Provisions, effective March 18, 2015.

The incorporation by reference (IBR) format for the rules allows the State of Wyoming to provide a more concise, easy to use set of rules that details the differences between the Federal and State rules. The IBR format also shows in detail which Wyoming rules are more stringent than, or broader in scope than, the Federal hazardous waste regulations. The new rules were presented to the Wyoming Water and Waste Advisory Board (WWAB) in July 2014 and the WWAB recommended that the rules package could move forward to the Wyoming Environmental Quality Council (EQC) in September 2014. The State's new rules were presented to the EQC on January 15, 2015, and were approved unanimously by the EQC on the same day. A total of two public notices in June and July 2014 and October through December 2014 were conducted as part of the State rule-making process. The rules were finalized for the purposes of State adoption on March 31, 2015. Wyoming has adopted Federal rules promulgated through January 31, 2014 (date certain) in Title 40 of the Code of Federal Regulations (40 CFR), with the exceptions detailed in its Hazardous Waste Management Rules and Consolidated Checklists submitted by the State as part of its authorization application package. For detailed information regarding the regulatory transition, see the Wyoming Department of Environmental Quality Hazardous Waste Program, Program Description for Revision 6 Request for Reauthorization, dated May 22, 2015, as revised November 24, 2015; specifically, Attachment D: *General Correspondence Between Previous State Rules, Current State IBR Rules, and Federal Rules* and Attachment E: *General Correspondence Between Previous State Rules, Current State IBR Rules and Federal Statutes.*

As a result of the State's adoption of the IBR format, Wyoming is seeking reauthorization for the hazardous waste regulatory program administered by the DEQ, as authorized under the Federal Resource Conservation Recovery Act (RCRA), and addressed in the following authorization **Federal Register** actions: 60 FR 51925 (October 4, 1995) and 66 FR 40911 (August 6, 2001). Wyoming is also seeking authorization for the Federal rule published on February 9, 1995 (60 FR 7824), as amended on April 17, 1995 (60 FR 19165) and May 12, 1995 (60 FR 25619) [Revision Checklist 140]), and specific Federal rules promulgated from March 26, 1996 through January 31, 2014. The State hazardous waste program for which authorization is sought does not include a request for authorization on Indian lands within the State.

G. What changes are we authorizing with this action?

Wyoming submitted a final complete program revision application on February 4, 2016, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action that Wyoming's hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Therefore, we grant Wyoming final authorization for the program modifications contained in the State's program revision application, which includes State regulatory changes that are no less stringent than the Federal hazardous waste regulations as they appear in the 40 CFR, revised as of January 31, 2014, except for the final rules published on May 15, 2000 (65 FR 30886; Checklist 186), April 22, 2004 (69 FR 21737, as amended on October 25, 2004 69 FR 62217; Checklist 204); April 4, 2006 (71 FR 16862; Checklist 213); October 30, 2008 (73 FR 64668; Revisions to the Definition of Solid Waste; Checklist 219); and December 19, 2008 (73 FR 77954, Checklist 221). The State requirements from its Department of Environmental Quality Hazardous Waste Rules and Regulations (HWRR), effective March 18, 2015, are included in the chart below.

Description of Federal requirement	Analogous state authority [1]
1. 40 CFR part 124, subpart A (except Sections 124.1, 124.4, 124.5(c), 124.5(e)–(g), 124.6(c), 124.6(d)(4)(ii)–(v), 124.8(b)(3), 124.8(b)(8), 124.9(b)(6), 124.10(a)(1)(iv)–(v), 124.10(c)(1)(iv)–(viii), 124.10(c)(2)(i), 124.10(d)(1)(vii)–(viii), 124.10(d)(2)(iv), 124.12(b), 124.15(b)(2), 124.16, 124.18(b)(5), 124.19, and 124.21); subpart B (except the fourth sentence of 124.31(a), the third sentence of 124.32(a), and the second sentence of 124.33(a)); and subpart G (except 124.204(d)(1) and (4), 124.205(a) and (h)).	HWRR, Chapter 1, Sections 2(a) and 124. [More stringent provisions: 124(a)(v); 124(b)(i); 124(b)(iii) second sentence; 124(b)(iii)(A) through (C); 124(b)(iv); 124(d)(i); 124(d)(ii); and 124(e)(iii)].
2. 40 CFR part 260, except for the following provisions: 260.2, 260.10 (definitions of "Performance Track member facility", "remediation waste management site", and the third part of the definition for "facility"), 260.20(d) and (e), and the October 30, 2008 Definition of Solid Waste, (73 FR 62668).	Wyoming Department of Environmental Quality (WDEQ) Rules of Practice and Procedure, as amended February 14, 1994, Chapter III; HWRR, Chapter 1, Sections 2(a), 2(b), 3, 4, and 260. [More stringent provision: 260(b)(ii)]. *Note:* *(1) Section 2 addresses: (a) The date of the Federal regulations that Wyoming has incorporated by reference; (b) Federal rules explicitly excluded from the State's rule; (c) references to the State's more stringent and broader in scope provisions; and (d) the availability of all referenced Federal and Wyoming materials.* *(2) Section 3 addresses the substitution of State terms for Federal terms in order to make the Federal regulations incorporated by reference specific to Wyoming.* (3) *Section 4 addresses Wyoming-specific definitions and provisions needed to provide additional clarity to the State's regulations.*
3. 40 CFR part 261, except for the following provisions: 261.4(b)(11), 261.4(b)(16), 261.4(b)(17), subpart H, Appendix IX, the language "in the Region where the sample is collected" in 261.4(e)(3)(iii), and the changes associated with 73 FR 62668, October 30, 2008 (Definition of Solid Waste).	HWRR, Chapter 1, Sections 2(a), 3(a)(x), 3(a)(xiii) and 261. [More stringent provision: 261(a)(iii) and 261(b)].
4. 40 CFR part 262, except for the following provisions: 262.10(j) and (k), 262.34(j)–(l), subparts I and J, and the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 262.42(b).	HWRR, Chapter 1, Sections 2(a) and 262. [More stringent provisions: 262(a)(iii) and 262(a)(v)].
5. 40 CFR part 263, except for the following provision: 263.20(a)(3) which addresses compliance dates for manifest form revisions for dates which have passed.	HWRR, Chapter 1, Sections 2(a) and 263. [More stringent provisions: 263(a)(iv)].
6. 40 CFR part 264, except for the following provisions: 40 CFR 264.1(f), 264.1(g)(12), 264.1(j), 264.15(b)(5), 264.70(b), 264.73(b)(17), 264.101(d), 264.147(k), 264.149, 264.150, 264.195(e), 264.301(l), 264.314(e), 264.554(l)(2), 264.1030(d), 264.1050(g), and 264.1080(e) through (g).	HWRR, Chapter 1, Sections 2(a) and 264(a)–(d); 264(e)(i) (except the citation "W.S. 35–11–1607" and the phrase "or signed remedy agreement pursuant to W.S. 35–11–1607" in the first sentence of 264(e)(i); 264(e)(iii)(A) and (B); and 264(f) through 264(m). [More stringent provisions: 264(a)(iv); 264(a)(v); 264(a)(vii); 264(a)(x); 264(a)(xi); 264(h); 264(i); 264(l); and 264(m)]. [Broader-in-scope provisions: 264(e)(i) and (ii)].
7. 40 CFR part 265, except for the following provisions: Subpart R, 40 CFR 265.1(c)(4), 265.15(b)(5), 265.15(c)(15), 265.70(b), 265.147(k), 265.149, 265.150, 265.195(d), 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g).	HWRR, Chapter 1, Sections 2(a) and 265. [More stringent provisions: 265(a)(iv) through (vi); 265(a)(ix); 265(a)(x); 265(e); and 265(f)].
8. 40 CFR part 266	HWRR, Chapter 1, Sections 2(a) and 266. [More stringent provisions: 266(b)(i) through (b)(vi); and 266(b)(viii)].
9. 40 CFR part 267, except 267.150	HWRR, Chapter 1, Sections 2(a) and 267. [More stringent provisions: 267(a)(ii); 267(a)(iii); and 267(b)].
10. 40 CFR part 268, except 268.5, 268.6, 268.13, 268.42(b), 268.44(a)–(g), and 268.44(o).	HWRR, Chapter 1, Sections 2(a) and 268.
11. 40 CFR part 270 except for the following provisions: 270.1(c)(1)(iii), 270.1(c)(2)(ix), 270.11(d)(2), 270.13(k)(7), 270.14(b)(18), 270.42(l), 270.42 (Appendix I, Part A, Entries 9 and 10, and Part O Entry (1)(a)–(d)), 270.51, 270.60(a), 270.64, 270.68, 270.73(a), subpart H (40 CFR 270.79–270.230), 270.260(h), and 270.290(r).	HWRR, Chapter 1, Sections 2(a), 3(a)(ii), 3(a)(v), 3(a)(vi) through 3(a)(ix), and 270 (except 270(n). [More stringent provisions: 270(a)(iv); 270(a)(ix); 270(a)(x); 270(a)(xii); 270(a)(xx); 270(b) through (e); 270(h); and 270(j) through (m)]. [Broader-in-scope provision: 270(n)].
12. 40 CFR part 273	HWRR, Chapter 1, Sections 2(a) and 273.
13. 40 CFR part 279	HWRR, Chapter 1, Sections 2(a) and 279.

[1] Items described as more stringent or broader-in-scope are discussed in detail in Section H of this rule.

H. Where are the revised State rules different from the Federal rules?

1. EPA considers several Wyoming requirements to be more stringent than the Federal requirements. These requirements are part of Wyoming's authorized program and are federally enforceable. The specific more stringent provisions include, but are not limited to, the following:

a. *Permitting Program and Procedures:* At 124(a)(v), 124(b)(i), 124(b)(iii) second sentence and 124(b)(iii)(A) through (C), 124(b)(iv), 124(d)(i), 124(d)(ii), 124(e)(iii), 270(a)(iv), 270(a)(ix), 270(a)(x), 270(a)(xii), 270(a)(xx), 270(b), 270(c)(i)(A), 270(c)(i)(B), 270(d)(i) introductory paragraph and (i)(A), 270(d)(i)(B), 270(d)(i)(C), 270(e), 270(h)(i), and 270(m) Wyoming has additional permitting procedure requirements (*e.g.,* Wyoming's section 124(e)(iii) is more stringent than 40 CFR 124.12(a)(3) and (a)(4) in that the State requires a hearing to be scheduled within 20 days after the close of the public comment, unless a different schedule is deemed necessary by the Council. The State also requires a public notice to be published once a week for two consecutive weeks immediately prior to the hearing in the county where the applicant plans to locate the facility);

b. *Notifications and Reports:* At 261(a)(iii), 262(a)(iii), 262(a)(v), 263(a)(iv), 264(a)(v), 265(a)(iv), 265(a)(v), 265(a)(ix), and 267(a)(iii), Wyoming requires copies of necessary notifications and reports be made and submitted to the Director or State agency in addition to the required Federal notification or reporting;

c. *Location Standards:* At both 264(a)(iv) and 267(a)(ii), Wyoming prohibits new facilities from being located in a 100-year floodplain;

d. *Health and Environment Risk Assessment and Minimization:* At 264(a)(vii), 264(l), 264(m), and 270(l) the State requires facility owners or operators to demonstrate the ability to take and continue to take steps to prevent threats to human health and the environment including additional provisions for the assessment of health risks from facilities associated with normal operation or failure of a hazardous waste management facility pollution control or containment system;

e. *Landfill Prohibition:* At 264(a)(x), 264(a)(xi), and 265(a)(x) Wyoming prohibits the placement of nonhazardous liquid waste in landfills;

f. *State Registration of Professional Engineers and Geologists:* At 264(h), 264(i), 265(e), 265(f), 267(b), 270(j), and 270(k), Wyoming requires both professional engineers and professional geologists to be registered in the State when referring to activities requiring Professional Engineer or Professional Geologist certification;

g. *Military Munitions:* At 266(b)(i), 266(b)(iii) through (v), and 266(b)(viii) Wyoming has additional requirements for military munitions (*e.g.,* at 266(b)(i) the State requires the operator of the range to notify the Director in writing if remedial action for these types of waste is infeasible); and

h. *Remedial Action Plans (RAPs):* Wyoming has chosen not to adopt the less stringent Remedial Action Plan (RAP) alternate permit for remediation management sites addressed in the final rule published on November 30, 1998 (63 FR 65874).

2. The EPA considers several State requirements to be broader-in-scope than the Federal program. Although a facility must comply with these requirements in accordance with State law, they are not RCRA requirements. Broader-in-scope requirements are not part of the authorized program and EPA cannot enforce them. The specific broader-in-scope provisions include the following:

a. *Wyoming Voluntary Remediation Program:* At 264(e)(i) and (ii) [with respect to the Wyoming Voluntary Remediation Program only] the State makes the Corrective Action Management Unit program requirements available to participants in the State of Wyoming Voluntary Remediation Program who would otherwise not be regulated under the RCRA program; and

b. *Permitting Program and Procedures:* At 270(n), Wyoming requires an applicant for a permit to demonstrate fitness by requiring that the past performance of the applicant or any partners, executive officers, or corporate directors, be reviewed.

Wyoming did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

3. The EPA will continue to implement certain Federal requirements that the EPA cannot delegate to states. The requirements include: (1) Certain provisions in 40 CFR 261.39(a)(5) and 261.41, part 262, subparts E, F and H, part 263, subpart B, 264.12(a)(2), 264.71(a)(3), 264.71(d), 265.12(a)(2), 265.71(a)(3), and 265.71(d) regarding governmental oversight of exports and imports of hazardous waste; (2) manifest registry functions in 40 CFR part 262, subpart B; (3) 268.5, 268.6, 268.42(b), and 268.44(a)–(g) regarding land disposal restrictions; and (4) 279.82(b) regarding State petitions to allow use of used oil as a dust suppressant.

I. Who handles permits after the authorization takes effect?

Wyoming will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Wyoming has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Wyoming is not yet authorized.

J. How does this action affect Indian country (18 U.S.C. 1151) in Wyoming?

This program revision does not extend to "Indian country" as defined in 18 U.S.C. 1151.

In excluding Indian country from the scope of this program revision, the EPA is not making a determination that the State either has adequate jurisdiction or lacks jurisdiction over sources in Indian country. Should the State of Wyoming choose to seek program authorization within Indian country, the EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval, and that such approval would constitute sound administrative practice.

II. Corrections

In the entry for the Checklist 142B authorization table published for Wyoming as part of the February 25, 1999 (64 FR 9278) proposed rule (final rule published on August 6, 2001 (66 FR 40911)), the citation "Ch. 13, S1(a)(vi)(A)" should be corrected to read *"Ch. 13, S1(a)(vi)(I)".*

III. Incorporation by Reference

A. What is codification?

Codification is the process of including the statutes and regulations that comprise the State's authorized hazardous waste management program into the CFR. Section 3006(b) of RCRA, as amended, allows the Environmental Protection Agency (EPA) to authorize state hazardous waste management programs. The state regulations authorized by the EPA supplant the Federal regulations concerning the same matter with the result that after authorization the EPA enforces the authorized regulations. Infrequently, state statutory language which acts to regulate a matter is also authorized by the EPA with the consequence that the EPA enforces the authorized statutory provision. The EPA does not authorize state enforcement authorities and does not authorize state procedural requirements. The EPA codifies the authorized state program in 40 CFR part 272 and incorporates by reference state statutes and regulations that make up the approved program which is federally enforceable in accordance with Sections 3007, 3008, 3013, and 7003 of

RCRA, 42 U.S.C. 6927, 6928, 6934 and 6973, and any other applicable statutory and regulatory provisions.

B. What decisions have we made in this rule?

In this action, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the Wyoming rules described in the amendments to 40 CFR part 272 set forth below. The EPA has made, and will continue to make, these documents available electronically through *http://www.regulations.gov* and in hard copy at the appropriate EPA office (see the **ADDRESSES** section of this preamble for more information).

The purpose of this **Federal Register** document is to codify the EPA's authorization of Wyoming's base hazardous waste management program and its revisions to that program. The codification reflects the State program that would be in effect at the time the EPA's authorized revisions to the Wyoming hazardous waste management program addressed in this direct final rule become final. This action does not reopen any decision the EPA previously made concerning the authorization of the State's hazardous waste management program. The EPA is not requesting comments on its decisions published in the **Federal Register** documents referenced in Section I.F of this preamble concerning revisions to the authorized program in Wyoming.

The EPA is incorporating by reference the EPA's approval of Wyoming's hazardous waste management program by adding subpart ZZ to 40 CFR part 272. Section 272.2551 incorporates by reference Wyoming's authorized hazardous waste regulations, as amended effective March 18, 2015. Section 272.2551 also references the demonstration of adequate enforcement authority, including procedural and enforcement provisions, which provide the legal basis for the State's implementation of the hazardous waste management program. In addition, section 272.2551 references the Memorandum of Agreement, the Attorney General's Statements and the Program Description, which are evaluated as part of the approval process of the hazardous waste management program in accordance with Subtitle C of RCRA.

C. What is the effect of Wyoming's codification on enforcement?

The EPA retains the authority under statutory provisions, including but not limited to, RCRA sections 3007, 3008, 3013 and 7003, and other applicable statutory and regulatory provisions to undertake inspections and enforcement actions and to issue orders in all authorized states. With respect to enforcement actions, the EPA will rely on Federal sanctions, Federal inspection authorities, and Federal procedures rather than the state analogs to these provisions. Therefore, the EPA is not incorporating by reference Wyoming's inspection and enforcement authorities nor are those authorities part of Wyoming's approved State program which operates in lieu of the Federal program. 40 CFR 272.2551(c)(2) lists these authorities for informational purposes, and because the EPA also considered them in determining the adequacy of Wyoming's procedural and enforcement authorities. Wyoming's authority to inspect and enforce the State's hazardous waste management program requirements continues to operate independently under State law.

D. What state provisions are not part of the codification?

The public is reminded that some provisions of Wyoming's hazardous waste management program are not part of the federally authorized State program. These non-authorized provisions include:

(1) Provisions that are not part of the RCRA subtitle C program because they are "broader-in-scope" than RCRA subtitle C (see 40 CFR 271.1(i));

(2) Federal rules for which Wyoming was previously authorized but which were later vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144; June 27, 2014). See 80 FR 18777 (April 8, 2015).

(3) State procedural and enforcement authorities which are necessary to establish the ability of the State's program to enforce compliance but which do not supplant the Federal statutory enforcement and procedural authorities.

State provisions that are "broader-in-scope" than the Federal program are not incorporated by reference in 40 CFR part 272. For reference and clarity, the EPA lists in 40 CFR 272.2551(c)(3) the Wyoming regulatory and statutory provisions which are "broader in scope" than the Federal program and which are not part of the authorized program being incorporated by reference. While "broader in scope" provisions are not part of the authorized program and cannot be enforced by the EPA, the State may enforce such provisions under State law.

E. What will be the effect of codification on Federal HSWA requirements?

With respect to any requirement(s) pursuant to HSWA for which the State has not yet been authorized, and which the EPA has identified as taking effect immediately in States with authorized hazardous waste management programs, the EPA will enforce those Federal HSWA standards until the State is authorized for those provisions.

The codification does not affect Federal HSWA requirements for which the State is not authorized. The EPA has authority to implement HSWA requirements in all states, including states with authorized hazardous waste management programs, until the states become authorized for such requirements or prohibitions, unless the EPA has identified the HSWA requirement(s) as an optional or as a less stringent requirement of the Federal program. A HSWA requirement or prohibition, unless identified by the EPA as optional or as less stringent, supersedes any less stringent or inconsistent state provision which may have been previously authorized by EPA (50 FR 28702, July 15, 1985).

Some existing state requirements may be similar to the HSWA requirements implemented by the EPA. However, until the EPA authorizes those state requirements, the EPA enforces the HSWA requirements and not the state analogs.

IV. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011). Therefore this action is not subject to review by OMB. This action authorizes and codifies State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes and codifies pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by

Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes and codifies State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the "Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings" issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes Federal executive policy on environmental justice. Its main provision directs Federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. Because this rule authorizes pre-existing State rules which are at least equivalent to, and no less stringent than existing Federal requirements, and imposes no additional requirements beyond those imposed by State law, and there are no anticipated significant adverse human health or environmental effects, the rule is not subject to Executive Order 12898.

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a "major rule" as defined by 5 U.S.C. 804(2). This action will be effective August 23, 2016.

List of Subjects

40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

40 CFR Part 272

Environmental protection, Hazardous materials transportation, Hazardous waste, Incorporation by reference, Intergovernmental relations, Water pollution control, Water supply.

Authority: This rule is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: May 11, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

For the reasons set forth in the preamble, under the authority at 42 U.S.C. 6912(a), 6926, and 6974(b), the EPA is granting final authorization under 40 CFR part 271 to the State of Wyoming for revisions to its hazardous waste program under the Resource Conservation and Recovery Act and is amending 40 CFR part 272 as follows:

PART 272—APPROVED STATE HAZARDOUS WASTE MANAGEMENT PROGRAMS

■ 1. The authority citation for part 272 continues to read as follows:

Authority: Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

■ 2. Amend subpart ZZ by adding § 272.2551 to read as follows:

§ 272.2551 Wyoming State-administered program: Final authorization.

(a) Pursuant to section 3006(b) of RCRA, 42 U.S.C. 6926(b), Wyoming has final authorization for the following elements as submitted to the EPA in Wyoming's base program application for final authorization which was approved by the EPA effective on October 18, 1995. Subsequent program revision applications were approved effective on August 6, 2001 and August 23, 2016.

(b) The State of Wyoming has primary responsibility for enforcing its hazardous waste management program. However, the EPA retains the authority to exercise its inspection and enforcement authorities in accordance with sections 3007, 3008, 3013, 7003 of RCRA, 42 U.S.C. 6927, 6928, 6934, 6973, and any other applicable statutory and regulatory provisions, regardless of whether the State has taken its own actions, as well as in accordance with other statutory and regulatory provisions.

(c) *State statutes and regulations.* (1) The Wyoming regulations cited in paragraph (c)(1)(i) of this section are incorporated by reference as part of the hazardous waste management program under Subtitle C of RCRA, 42 U.S.C. 6921 *et seq*. This incorporation by reference is approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain copies of the Wyoming regulations that are incorporated by reference in this paragraph from Wyoming Secretary of State's Office, The Capitol Building, Room B–10, 200 West 24th Street, Cheyenne, Wyoming 82002–0020, (Phone: 307–777–5407). You may inspect a copy at the EPA Region 8, 1595 Wynkoop Street, Denver, Colorado, phone number (303) 312–6231, or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to: *http://www.archives.gov/federal-register/cfr/ibr-locations.html.*

(i) The Binder entitled "EPA-Approved Wyoming Regulatory Requirements Applicable to the Hazardous Waste Management Program", dated March, 2016.

(ii) [Reserved]

(2) The EPA considered the following statutes and regulations in evaluating the State program but is not incorporating them herein for enforcement purposes:

(i) Wyoming Statutes Annotated (W.S.), as amended, 2015 Edition, Title 16, City, County, State, and Local Powers: Chapter 1, Intergovernmental Cooperation, section 16–1–101; Chapter 3, Administrative Procedure, sections 16–3–101(b)(vi), 16–3–103(h), 16–3–107(k); Chapter 4, Uniform Municipal Fiscal Procedures, Public Records, Documents and Meetings, sections 16–4–201, 16–4–203(d)(i), 16–4–203(d)(v).

(ii) W.S., as amended, 2015 Edition, Title 35, Public Health and Safety: Chapter 11, Environmental Quality, Article 1, General Provisions, sections 35–11–102, 35–11–103(a), 35–11–103(d)(i), 35–11–103(d)(ii), 35–103(d)(vii), 35–11–104 through 35–11–106, 35–11–108 through 35–11–115; Article 5, Solid Waste Management, sections 35–11–501 through 35–11–503 (except 35–11–503(b) and (c)), 35–11–504 through 35–11–506, 35–11–508, 35–11–509, 35–11–514, 35–11–516, 35–11–518 through 35–11–520; Article 9, Penalties, sections 35–11–901(a), (j), and (k); Article 11, Miscellaneous Provisions, sections 35–11–1101, 35–11–1105(d), 35–11–1106(a)(iv); Article 16, Voluntary Remediation of Contaminated Sites, section 35–11–1607(e).

(iii) Wyoming Rules of Civil Procedure, as amended, Rule 24.

(iv) Wyoming Hazardous Waste Management Rules, Chapter 1, General Provisions: Sections 1(a) through (d); 2(c) and (d); 124 (except 124(a)(v)); 260(b)(ii); and 270(o) through 270(q).

(v) Wyoming Department of Environmental Quality, Rules of Practice and Procedure, as amended February 14, 1994, Chapter III.

(3) The following statutory provisions are broader in scope than the Federal program, are not part of the authorized program, are not incorporated by reference and are not federally enforceable:

(i) W.S., as amended, 2015 Edition, Title 35, Public Health and Safety: Chapter 11, Environmental Quality, Article 5, Solid Waste Management, section 35–11–517; Chapter 12, Industrial Development and Siting, sections 35–12–101, *et seq.*

(ii) Wyoming Hazardous Waste Management Rules, Chapter 1, General Provisions: Sections 264(e)(i) [with respect to the Wyoming Voluntary Remediation Program only]; 264(e)(ii); and 270(n).

(iii) [Reserved]

(4) *Unauthorized state amendments.* (i) Wyoming has adopted but is not authorized for the following Federal final rules:

(A) Imports and Exports of Hazardous Waste: Implementation of OECD Council Division [61 FR 16290, 04/12/96] (HSWA—Not delegable to States);

(B) Hazardous Waste Combustors; Revised Standards [63 FR 33782, 6/19/98] (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144; June 27, 2014);

(C) Exclusion of Oil-Bearing Secondary Materials Processed in a Gasification System to Produce Synthesis Gas [73 FR 52, 1/2/08] (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144; June 27, 2014);

(D) OECD Requirements; Export Shipments of Spent Lead Acid Batteries [75 FR 1236, 1/8/10] (Non-HSWA—Not delegable to States);

(E) Withdrawal of the Emission Comparable Fuel Exclusion [75 FR 33712, 6/15/10] (Non-HSWA—Vacated by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Cir. No. 98–1379 and 08–1144; June 27, 2014); and

(F) Revisions to the Definition of Solid Waste [73 FR 64668, 10/30/08].

(ii) Those Federal rules written under RCRA provisions that predate HSWA (non-HSWA) which the State has adopted, but for which it is not authorized, are not federally enforceable. In contrast, the EPA will continue to enforce the Federal HSWA standards for which Wyoming is not authorized until the State receives specific authorization from EPA.

(5) *Memorandum of Agreement.* The Memorandum of Agreement between the EPA, Region 8 and the State of Wyoming, signed by the State of Wyoming Department of Environmental Quality on July 19, 2012, and by the EPA Regional Administrator on July 27, 2012, although not incorporated by reference, is referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(6) *Statement of legal authority.* "Attorney General's Statement for Final Authorization", signed by the Attorney General of Wyoming on July 14, 1995, and revisions, supplements and addenda to that Statement dated December 9, 1997 and May 11, 2015, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

(7) *Program Description.* The Program Description and any other materials submitted as supplements thereto, although not incorporated by reference, are referenced as part of the authorized hazardous waste management program under subtitle C of RCRA, 42 U.S.C. 6921 *et seq.*

■ 3. Appendix A to part 272 is amended by adding the listing for "Wyoming" to read as follows:

Appendix A to Part 272—State Requirements

* * * * *

Wyoming

The regulatory provisions include:

Wyoming Hazardous Waste Management Rules, as amended effective March 18, 2015, Chapter 1, General Provisions: Sections 2(a) and (b); 3; 4; 124(a)(v); 260 (except 260(b)(ii)); 261; 262; 263; 264(a) through 264(d), 264(e)(i) (except the citation "W.S. 35–11–1607" and the phrase "or a signed remedy agreement pursuant to W.S. 35–11–1607" in the first sentence), 264(e)(iii)(A) and (B), 264(f) through 264(m); 265; 266; 267; 268; 270(a) through 270(m); 273; and 279.

Copies of the Wyoming regulations that are incorporated by reference are available from Wyoming Secretary of State's Office, The Capitol Building, Room B–10, 200 West 24th Street, Cheyenne, Wyoming 82002–0020, (Phone: (307) 777–5407).

[FR Doc. 2016–14284 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1536 and 1537

[EPA–HQ–OARM–2013–0370; FRL–9946–78–OARM]

Acquistion Regulation: Update to Construction and Architect-Engineer and Key Personnel Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is issuing a final rule amending the EPA Acquisition Regulation (EPAAR) to remove the evaluation of contracting performance and to incorporate flexibility to identify the required number of days of key

personnel commitment during the early stages of contractor performance under the Key Personnel clause. This final rule also provides for minor edits of an administrative nature.

DATES: This final rule is effective on July 25, 2016.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OARM–2013–0370. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available electronically through *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Holly Hubbell, Policy, Training, and Oversight Division, Acquisition Policy and Training Service Center (3802R), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 202–564–1091; email address: *hubbell.holly@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Executive Summary

This rule incorporates an existing class deviation and makes minor administrative changes to EPAAR parts 1536 and 1537. This rule includes the following content changes: (1) Removes 1536.201 Evaluation of contracting performance; (2) provides administrative updates and adds Chief of the Contracting Office (CCO) to 1536.209(c); (3) under 1536.521, updates the term "small purchases" with "simplified acquisition threshold"; (4) under 1537.110(b) the term contracting officer's technical representative(s)" is replaced by Contracting Officer's Representative(s)"; (5) amends 1537.110(c) to incorporate the flexibilities provided by a class deviation to the Key Personnel requirements; and (6) removes "CFR 48" from 1537.110. These changes do not incur any costs, but provide flexibility regarding key personnel commitments.

II. General Information

A. Does this action apply to me?

The EPAAR applies to contractors who have a construction, architect-engineer, or service contract with EPA.

B. What action is the agency taking?

The rule removes the evaluation of contracting performance and incorporate flexibility to identify the required number of days of key personnel commitment during the early stages of contractor performance under the Key Personnel clause. The rule also provides for minor edits of an administrative nature.

III. Background

EPA published a proposed rule in the **Federal Register** at 79 FR 47044, August 12, 2014, to remove section 1536.201 on the evaluation of contractor performance under construction contracts and the incorporation of flexibilities provided by a class deviation to the Key Personnel requirements under EPAAR Part 1537. A previous review of the EPAAR, determined that the EPAAR requirement for the evaluation of construction contracts should be removed as it was superseded by FAR 42.1502. Additionally, under EPAAR 1552.237–72, EPA provides contracting officers with the flexibility to identify the required number of days of key personnel commitment during the early stages of contractor performance. The length of time will be based on the requirements of individual acquisitions when continued assignment is essential to the successful implementation of the program's mission. Contracting officers may include a different number of days in excess of the ninety (90) days included in the clause, if approved at one level above the contracting officer. The rule also provides minor administrative edits in the EPAAR sections identified. No comments were received on the previously published proposed rule.

IV. Statutory and Executive Orders Reviews

A. Executive Order 12866: Regulatory Planning and Review and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a "significant regulatory action" under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and therefore, not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* No information is collected under this action.

C. Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute; unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions. For purposes of assessing the impact of this rule on small entities, "small entity" is defined as: (1) A small business that meets the definition of a small business found in the Small Business Act and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. After considering the economic impacts of this rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action revises a current EPAAR provision and does not impose requirements involving capital investment, implementing procedures, or record keeping. This rule will not have a significant economic impact on small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, Local, and Tribal governments and the private sector. This rule contains no Federal mandates (under the regulatory provisions of the Title II of the UMRA) for State, Local, and Tribal governments or the private sector. The rule imposes no enforceable duty on any State, Local or Tribal governments or the private sector. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled "Federalism" (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure "meaningful and timely input by State and Local officials in the development of regulatory policies that have federalism implications." "Policies that have federalism implications" is defined in the Executive Order to include regulations that have "substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government." This rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government as specified in Executive Order 13132.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled "Consultation and Coordination with Indian Tribal Governments" (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure "meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications." This rule does not have tribal implications as specified in Executive Order 13175.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, entitled "Protection of Children from Environmental Health and Safety Risks" (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be economically significant as defined under Executive Order 12886, and (2) concerns an environmental health or safety risk that may have a proportionate effect on children. This rule is not subject to Executive Order 13045 because it is not an economically significant rule as defined by Executive Order 12866, and because it does not involve decisions on environmental health or safety risks.

H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use

This final rule is not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution or Use" (66 FR 28335, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act of 1995 (NTTAA)

Section 12(d) (15 U.S.C. 272 note) of NTTA, Public Law 104–113, directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.,* materials specifications, test methods, sampling procedures and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This final rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629, February 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States. EPA has determined that this final rulemaking will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This rulemaking does not involve human health or environmental effects.

K. Congressional Review

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules (1) rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of agency organization, procedure, or practice that does not substantially affect the rights or obligations of non-agency parties.

List of Subjects in 48 CFR Parts 1536 and 1537

Environmental protection, Government procurement.

Dated: June 2, 2016.

Denise Polk,

Acting Director, Office of Acquisition Management.

Therefore, 48 CFR Chapter 15 is amended as set forth below:

PART 1536—CONSTRUCTION AND ARCHITECT–ENGINEER CONTRACTS

■ 1. The authority citation for part 1536 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 1707.

1536.201 [Removed]

■ 2. Remove section 1536.201.

1536.209 [Amended]

■ 3. Amend section 1536.209, paragraph (c), by removing the text "CCO" and "RAD" and adding the words "Chief of the Contracting Office", in their places.

1536.521 [Amended]

■ 4. Amend section 1536.521 by removing the words "small purchase" and adding the words "simplified acquisition threshold", two times.

PART 1537—SERVICE CONTRACTING

■ 5. The authority citation for part 1537 is revised to read as follows:

Authority: 5 U.S.C. 301 and 41 U.S.C. 1707.

■ 6. Amend section 1537.110 by revising paragraphs (b), (c), and (f) to read as follows:

1537.110 Solicitation provisions and contract clauses.

* * * * *

(b) The Contracting Officer shall insert a clause substantially the same as the clause at 1552.237–71, Technical Direction, in solicitations and contracts where the Contracting Officer intends to delegate authority to issue technical direction to the Contracting Officer's Representative(s).

(c) The Contracting Officer shall insert the clause at 1552.237–72, Key

Personnel, in solicitations and contracts when it is necessary for contract performance to identify Contractor key personnel. Contracting Officers have the flexibility to identify the required number of days of key personnel commitment during the early stages of contractor performance. The length of time will be based on the requirements of individual acquisitions when continued assignment is essential to the successful implementation of the program's mission. Therefore, Contracting Officers may use a clause substantially the same as in 48 CFR 1552.237–72, regarding substitution of key personnel. Contracting Officers may include a different number of days in excess of the ninety (90) days included in this clause, if approved at one level above the Contracting Officer.

* * * * *

(f) To ensure that Agency contracts are administered so as to avoid creating an improper employer-employee relationship, contracting officers shall insert the contract clause at 1552.237–76, "Government-Contractor Relations", in all solicitations and contracts for non-personal services that exceed the simplified acquisition threshold.

[FR Doc. 2016–15002 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1815 and 1852

RIN 2700–AE27

NASA Federal Acquisition Regulation Supplement: Removal of Grant Handbook References (NFS Case 2016–N001)

AGENCY: National Aeronautics and Space Administration.

ACTION: Final rule.

SUMMARY: NASA is issuing a final rule amending the NASA Federal Acquisition Regulation Supplement (NFS) to remove references to NASA's Grant and Cooperative Agreement Handbook, NASA Procedural Requirements (NPR) 5800.1, NASA Grant and Cooperative Agreement Handbook, and Office of Management and Budget (OMB) Circulars A–21 for educational institutions and A–122 for nonprofit organizations.

DATES: *Effective:* July 25, 2016.

FOR FURTHER INFORMATION CONTACT: Andrew O'Rourke, telephone 202–358–4560.

SUPPLEMENTARY INFORMATION:

I. Background

NASA published a proposed rule in the **Federal Register** at 81 FR 13308 on March 14, 2016, to amend the NFS to remove references to NASA's Grant and Cooperative Agreement Handbook, NPR 5800.1, NASA Grant and Cooperative Agreement Handbook and Office of Management and Budget (OMB) Circulars A–21 for educational institutions and A–122 for nonprofit organizations.

II. Discussion and Analysis

No public comments were submitted in response to the proposed rule. The proposed rule has been converted to a final rule without change.

III. Executive Orders 12866 and 13563

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

IV. Regulatory Flexibility Act

A final regulatory flexibility analysis has been prepared consistent with the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, and is summarized as follows:

NASA is issuing a final rule amending the NFS to remove references to the NASA Grant and Cooperative Agreement Handbook and NPR 5800.1, NASA Grant and Cooperative Agreement Handbook. No changes were made to the final rule. No public comments were received in response to the Initial Regulatory Flexibility Analysis in the proposed rule. Therefore, the proposed rule has been adopted as final. NASA does not expect this final rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, because it merely removes outdated and unnecessary grant and cooperative agreement references that should not be in the NFS. There are no new reporting requirements or recordkeeping requirements associated with this rule. In addition, there are no other alternatives that could further minimize the already negligible impact on businesses, small or large.

V. Paperwork Reduction Act

The rule does not contain any information collection requirements that require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 48 CFR Parts 1815 and 1852

Government procurement.

Manuel Quinones,
NASA FAR Supplement Manager.

Accordingly, 48 CFR parts 1815 and 1852 are amended as follows:

■ 1. The authority citation for parts 1815 and 1852 continues to read as follows:

Authority: 51 U.S.C. 20113(a) and 48 CFR chapter 1.

PART 1815—CONTRACTING BY NEGOTIATION

■ 2. Revise section 1815.602 to read as follows:

1815.602 Policy.

Renewal proposals, (*i.e.,* those for the extension or augmentation of current contracts) are subject to the same FAR and NFS regulations, including the requirements of the Competition in Contracting Act, as are proposals for new contracts.

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Amend section 1852.235–72 by—

■ a. Removing from the provision heading "DEC 2005" and adding (JUL 2016) in its place; and

■ b. Revising paragraphs (a)(4) and (c)(8)(iii).

The revisions read as follows:

1852.235–72 Instructions for responding to NASA research announcements.

* * * * *

(a) * * *

(4) A contract, grant, cooperative agreement, or other agreement may be used to accomplish an effort funded in response to an NRA. NASA will determine the appropriate award instrument. Contracts resulting from NRAs are subject to the Federal Acquisition Regulation and the NASA FAR Supplement. A grant, cooperative agreement, or other agreement resulting from NRAs are subject to policies and procedures outlined in the Guidebook for Proposers Responding to a NASA

Funding Announcement, 2 CFR part 1800, 14 CFR part 1274, or other agreement policy. Any proposal from a large business concern that may result in the award of a contract, which exceeds $5,000,000 and has subcontracting possibilities should include a small business subcontracting plan in accordance with the clause at FAR 52.219–9, Small Business Subcontracting Plan.

(Subcontract plans for contract awards below $5,000,000, will be negotiated after selection.)

* * * * *

(c) * * *

(8) * * *

(iii) Allowable costs are governed by FAR part 31 and the NASA FAR Supplement part 1831.

* * * * *

[FR Doc. 2016–14851 Filed 6–23–16; 8:45 am]

BILLING CODE 7510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 160205084–6510–02]

RIN 0648–BF76

International Fisheries; Western and Central Pacific Fisheries for Highly Migratory Species; Purse Seine Observer Requirements, and Fishing Restrictions and Limits in Purse Seine and Longline Fisheries for 2016–2017

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: Under authority of the Western and Central Pacific Fisheries Convention Implementation Act (WCPFC Implementation Act), NMFS issues this final rule that, first, requires that U.S. purse seine vessels carry observers on fishing trips in the western and central Pacific Ocean (WCPO); second, establishes restrictions in 2016 and 2017 on the use of fish aggregating devices (FADs) by U.S. purse seine vessels in the WCPO; and third, establishes limits in 2016 and 2017 on the amount of bigeye tuna that may be captured by U.S. longline vessels in the WCPO. This action implementing specific provisions of Conservation and Management Measure (CMM) 2015–01 is necessary to satisfy the obligations of the United States as a Contracting Party to the Convention on the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Convention), pursuant to the authority of the WCPFC Implementation Act.

DATES: Effective July 25, 2016, except § 300.223(b)(1) introductory text and paragraphs (b)(2)(i) through (iv), and § 300.224(a), which shall be effective July 1, 2016.

ADDRESSES: Copies of supporting documents prepared for this final rule, including the regulatory impact review (RIR), and the programmatic environmental assessment (PEA) and supplemental information report (SIR) prepared for National Environmental Policy Act (NEPA) purposes, as well as the proposed rule, are available via the Federal e-rulemaking Portal, at *www.regulations.gov* (search for Docket ID NOAA–NMFS–2016–0031). Those documents are also available from NMFS at the following address: Michael Tosatto, Regional Administrator, NMFS, Pacific Islands Regional Office (PIRO), 1845 Wasp Blvd., Building 176, Honolulu, HI 96818.

A final regulatory flexibility analysis (FRFA) prepared under authority of the Regulatory Flexibility Act is included in the Classification section of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Tom Graham, NMFS PIRO, 808–725–5032.

SUPPLEMENTARY INFORMATION:

Background

On April 27, 2016, NMFS published a proposed rule in the **Federal Register** (81 FR 24772). The proposed rule was open for public comment until May 12, 2016.

This final rule is issued under the authority of the WCPFC Implementation Act (16 U.S.C. 6901 *et seq.*), which authorizes the Secretary of Commerce, in consultation with the Secretary of State and the Secretary of the Department in which the United States Coast Guard is operating (currently the Department of Homeland Security), to promulgate such regulations as may be necessary to carry out the obligations of the United States under the Convention, including the decisions of the Commission for the Conservation and Management of Highly Migratory Fish Stocks in the Western and Central Pacific Ocean (Commission or WCPFC). The authority to promulgate regulations has been delegated to NMFS.

This final rule implements specific provisions of the Commission's Conservation and Management Measure (CMM) 2015–01, "Conservation and Management Measure for Bigeye, Yellowfin, and Skipjack Tuna in the Western and Central Pacific Ocean." The preamble to the proposed rule provides background information on the Convention and the Commission, the provisions of CMM 2015–01 that are being implemented in this rule, and the basis for the proposed regulations, which is not repeated here.

The Action

This final rule includes three elements, described in detail below, that will be included in regulations at 50 CFR part 300, subpart O.

1. Purse Seine Observer Requirements

This final rule prohibits U.S. purse seine vessels from fishing in the Convention Area between the latitudes of 20 °N. and 20 °S. without a WCPFC observer on board, with the exception of fishing trips during which any fishing in the Convention Area takes place entirely within areas under the jurisdiction of a single nation other than the United States. Although U.S. purse seine vessels are exempt from this requirement on trips in which fishing occurs only in the waters of a single foreign nation, it is expected that such foreign nations will require that U.S. purse seine vessels carry observers if fishing in their waters.

A WCPFC observer is an observer deployed from an observer program that has been authorized by the Commission to be part of the WCPFC Regional Observer Programme (see definition at 50 CFR 300.211). Currently, the Pacific Islands Forum Fisheries Agency (FFA) observer program, from which observers for the U.S. WCPO purse seine fleet have traditionally been deployed, and the NMFS observer program, among others, are authorized as part of the WCPFC Regional Observer Programme. Thus, observers deployed by these programs are considered WCPFC observers.

2. Purse Seine FAD Restrictions for 2016–2017

This final rule establishes restrictions on the use of FADs by purse seine vessels, including periods in 2016 and 2017 during which specific uses of FADs are prohibited (FAD prohibition periods), annual limits in 2016 and 2017 on the number of purse seine sets that may be made on FADs (FAD sets), and restrictions on the use of FADs on the high seas throughout 2017.

Specifically, this final rule establishes FAD prohibition periods from July 1 through September 30 in each of 2016 and 2017, a limit of 2,522 FAD sets in each of 2016 and 2017, and a prohibition on FAD sets on the high seas during 2017.

As defined at 50 CFR 300.211, a FAD is "any artificial or natural floating object, whether anchored or not and whether situated at the water surface or not, that is capable of aggregating fish, as well as any object used for that purpose that is situated on board a vessel or otherwise out of the water. The definition of FAD does not include a vessel." Although the definition of a FAD does not include a vessel, the restrictions during the FAD prohibition periods include certain activities related to fish that have aggregated in association with a vessel, or drawn by a vessel, as described below.

During the July–September FAD prohibition periods in each of 2016 and 2017, after the 2,522 FAD set limit is reached in 2016 or 2017 (until the end of the respective calendar year), and on the high seas throughout 2017, owners, operators, and crew of fishing vessels of the United States are prohibited from doing any of the following activities in the Convention Area in the area between 20 °N. latitude and 20 °S. latitude:

(1) Set a purse seine around a FAD or within one nautical mile of a FAD.

(2) Set a purse seine in a manner intended to capture fish that have aggregated in association with a FAD or a vessel, such as by setting the purse seine in an area from which a FAD or a vessel has been moved or removed within the previous eight hours, setting the purse seine in an area in which a FAD has been inspected or handled within the previous eight hours, or setting the purse seine in an area into which fish were drawn by a vessel from the vicinity of a FAD or a vessel.

(3) Deploy a FAD into the water.

(4) Repair, clean, maintain, or otherwise service a FAD, including any electronic equipment used in association with a FAD, in the water or on a vessel while at sea, except that: A FAD may be inspected and handled as needed to identify the FAD, identify and release incidentally captured animals, un-foul fishing gear, or prevent damage to property or risk to human safety; and a FAD may be removed from the water and if removed may be cleaned, provided that it is not returned to the water.

(5) From a purse seine vessel or any associated skiffs, other watercraft or equipment, submerge lights under water; suspend or hang lights over the side of the purse seine vessel, skiff, watercraft or equipment, or direct or use lights in a manner other than as needed to illuminate the deck of the purse seine vessel or associated skiffs, watercraft or equipment, to comply with navigational requirements, and to ensure the health and safety of the crew. These prohibitions do not apply during emergencies as needed to prevent human injury or the loss of human life, the loss of the purse seine vessel, skiffs, watercraft or aircraft, or environmental damage.

3. Longline Bigeye Tuna Catch Limits for 2016–2017

This final rule establishes limits on the amount of bigeye tuna that may be caught in the Convention Area by U.S. fishing vessels using longline gear in each of 2016 and 2017. The limit for 2016 is 3,554 mt, and the limit for 2017 is 3,345 mt. If NMFS later determines that there was an overage of the limit for 2016, NMFS will adjust the 2017 limit in accordance with the provisions of CMM 2015–01 and any other pertinent Commission decisions in force at the time.

The 2016 and 2017 longline bigeye tuna catch limits apply only to U.S-flagged longline vessels operating as part of the U.S. longline fisheries. The limits do not apply to U.S. longline vessels operating as part of the longline fisheries of American Samoa, the Commonwealth of the Northern Mariana Islands, or Guam, which are U.S. Participating Territories in the Commission. Existing regulations at 50 CFR 300.224(b), (c), and (d) detail the manner in which longline-caught bigeye tuna is attributed among the fisheries of the United States and the U.S. Participating Territories.

The catch limits will be measured in terms of retained catches—that is, bigeye tuna that are caught by longline gear and retained on board the vessel.

As set forth under the existing regulations at 50 CFR 300.224(e), if NMFS determines that the 2016 or 2017 limit is expected to be reached before the end of the respective calendar year, NMFS will publish a notice in the **Federal Register** to announce specific fishing restrictions that will be effective from the date the limit is expected to be reached until the end of that calendar year. NMFS will publish the notice of the restrictions at least 7 calendar days before the effective date to provide vessel owners and operators with advance notice. Periodic forecasts of the date the limit is expected to be reached will be made available to the public on the Web site of the NMFS Pacific Islands Regional Office, at *www.fpir.noaa.gov/SFD/SFD_regs_3.html*, to help vessel owners and operators plan for the possibility of the limit being reached.

As set forth under the existing regulations at 50 CFR 300.224(f), if the 2016 or 2017 limit is reached, the following restrictions will go into effect:

(1) Retaining on board, transshipping, or landing bigeye tuna: Starting on the effective date of the restrictions and extending through December 31 of the applicable year, it will be prohibited to use a U.S. fishing vessel to retain on board, transship, or land bigeye tuna captured in the Convention Area by longline gear, with three exceptions, as described below.

First, any bigeye tuna already on board a fishing vessel upon the effective date of the restrictions may be retained on board, transshipped, and/or landed, provided that they are landed within 14 days after the restrictions become effective. A vessel that had declared to NMFS pursuant to 50 CFR 665.803(a) that the current trip type is shallow-setting will not be subject to this 14-day landing restriction, so these vessels will be able to land bigeye tuna more than 14 days after the restrictions become effective.

Second, bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are caught by a fishing vessel registered for use under a valid American Samoa Longline Limited Access Permit, or if they are landed in American Samoa, Guam, or the CNMI. However, the bigeye tuna must not be caught in the portion of the U.S. exclusive economic zone (EEZ) surrounding the Hawaiian Archipelago, and must be landed by a U.S. fishing vessel operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

Third, bigeye tuna captured by longline gear may be retained on board, transshipped, and/or landed if they are caught by a vessel that is included in a valid specified fishing agreement under 50 CFR 665.819(d), in accordance with 50 CFR 300.224(f)(1)(iv).

(2) Transshipping bigeye tuna to certain vessels: To the extent authorized under the prohibition described above on "retaining on board, transshipping, or landing bigeye tuna," starting on the effective date of the restrictions and extending through December 31 of the applicable year, it will be prohibited to transship bigeye tuna caught by longline gear in the Convention Area to any vessel other than a U.S. fishing vessel operated in compliance with a valid permit issued under 50 CFR 660.707 or 665.801.

(3) Fishing inside and outside the Convention Area: To help ensure compliance with the restrictions related to bigeye tuna caught by longline gear in the Convention Area, this final rule

establishes two additional, related prohibitions that will go into effect starting on the effective date of the restrictions and extending through December 31 of the applicable year. First, vessels will be prohibited from fishing with longline gear both inside and outside the Convention Area during the same fishing trip, with the exception of a fishing trip that is in progress at the time the announced restrictions go into effect. In the case of a fishing trip that is in progress at the time the restrictions go into effect, the vessel still must land any bigeye tuna taken in the Convention Area within 14 days of the effective date of the restrictions, as described above. Second, if a vessel is used to fish using longline gear outside the Convention Area and enters the Convention Area at any time during the same fishing trip, the longline gear on the fishing vessel must be stowed in a manner so as not to be readily available for fishing while the vessel is in the Convention Area. These two prohibitions will not apply to vessels on declared shallow-setting trips pursuant to 50 CFR 665.803(a), or vessels operating for the purposes of this rule as part of the longline fisheries of American Samoa, Guam, or the CNMI. This second group includes vessels registered for use under valid American Samoa Longline Limited Access Permits; vessels landing their bigeye tuna catch in one of the three U.S. Participating Territories, so long as these vessels conduct fishing activities in accordance with the conditions described above; and vessels included in a specified fishing agreement under 50 CFR 665.819(d), in accordance with 50 CFR 300.224(f)(1)(iv).

Comments and Responses

NMFS received several comments on the proposed rule. The comments are summarized below, followed by responses from NMFS.

Comment 1: I support the proposed regulations; they are logical steps towards sustainable use of international fisheries and will have a positive impact on these fisheries and will contribute to improving sustainability of tropical tuna stocks. Additionally, the regulations may set a new standard for other nations to improve regulations on these important and vulnerable resources.

Response: NMFS acknowledges the comment.

Comment 2: The Hawaii Longline Association commented as follows on the proposed longline bigeye tuna catch limits for 2016–2017.

It is well established that the United States cannot end overfishing of bigeye tuna in the WCPO through unilateral actions, and unilateral suppression of U.S. commercial longline bigeye tuna fishing would be counterproductive to conservation of bigeye tuna and other species.

We understand that there was no overage of the U.S. longline bigeye tuna catch limit for 2015, so we expect the 2016 limit to be 3,554 mt, as in the proposed rule. If the 2016 limit is reached and a specified fishing agreement (under 50 CFR 665.819(c)) is effective and has been approved at the time the limit is reached, any fish landed immediately after the limit is reached should be attributed to the U.S. territory that is a party to the specified fishing agreement.

In 2015 the Hawaii deep-set longline fishery was closed for an extended period in the WCPO and a great many vessels had to cease fishing entirely—even though a specified fishing agreement had been executed—because NMFS' issuance of territory specification regulations was delayed. We request that NMFS act promptly and with all due diligence in completing the territory specification rulemaking process in 2016.

Response: NMFS agrees that ending overfishing of bigeye tuna will require multilateral efforts by the countries involved in fisheries for the stock.

With respect to the 2015 longline bigeye tuna catch limit, the commenter's understanding that there was no overage of the 2015 limit is correct. NMFS explained in the proposed rule that if, after publishing the proposed rule, NMFS determines that there was an overage in 2015, NMFS would adjust the 2016 limit as follows: An amount equal to the overage would be subtracted from 3,554 mt to determine the annual limit for 2016. Since publication of the proposed rule, NMFS has determined that that there was no overage of the 2015 limit. As a result, the limit for 2016, as established in this final rule, is unchanged from the proposed limit, 3,554 mt.

With respect to what will occur if the 2016 longline bigeye tuna limit is reached, bigeye tuna caught by vessels included in specified fishing agreements under 50 CFR 665.819(c) will be attributed among fisheries according to the existing criteria and procedures at 50 CFR 300.224(d) and 665.819, which are not revised by this final rule. NMFS emphasizes that whether a given bigeye tuna will be attributed to the U.S. territory that is party to a specified fishing agreement will depend on, among other things, the start date for the agreement as determined under 50 CFR 665.819(c)(9).

With respect to the issuance of specifications related to longline bigeye tuna catch limits for the U.S. territories and specified fishing agreements for 2016, NMFS acknowledges the comment and will undertake the rulemaking process in accordance with applicable laws and regulations.

Comment 3: The Center for Biological Diversity (CBD) submitted comments stating that it has a strong interest in eliminating fisheries impacts on marine mammals protected under the Marine Mammal Protection Act (MMPA), as well as marine species listed under the Endangered Species Act (ESA).

In support of its comments, CBD stated that WCPO fisheries involve primarily purse seine and longline fishing, targeting bigeye, yellowfin, and skipjack tuna species, but that bycatch in these fisheries is common, sometimes accounting for more than 30 percent of a ship's annual haul. CBD stated that every year, fishing fleets are known to ensnare species protected under the MMPA and ESA as part of their fishing operation, but observers on U.S. vessels only conduct limited identification and reporting of impacts to protected marine mammals and sea turtles, and observers remain undertrained for this task. CBD noted that the Biological Opinion on the Effects of the U.S. Tuna Purse Seine Fishery in the Western and Central Pacific Ocean on Listed Sea Turtles and Marine Mammals (2006 BiOp) described limitations on observer data collected for the U.S. purse seine fishery operating in the WCPO regarding the specific protected species with which the fishery interacts. Due to the limitations on the data, the 2006 BiOp did not estimate the total number of marine mammals projected to be captured each year, and NMFS did not set a take limit for these species. CBD noted that according to the 2006 BiOp, four of the 12 recorded capture events between 1997 and 2004 involved interactions with whale species, possibly involving multiple individuals each time.

Response: NMFS acknowledges that there were limitations in available data during completion of the 2006 BiOp. Beginning in 2010, however, consistent with WCPFC conservation and management measures, the U.S. WCPO purse seine fishery has been subject to increased observer coverage requirements adopted by the WCPFC. With this increased observer coverage, more robust data have become available. NMFS reinitiated formal ESA Section 7 consultation for the WCPO purse seine fishery for the effects of the fishery on the recently listed Indo-West Pacific Distinct Population Segment (DPS) of the scalloped hammerhead shark, and we expect completion of formal consultation for that species by the end of 2016. NMFS also is developing a biological assessment for the U.S. WCPO purse seine fishery in anticipation of reinitiating ESA Section 7 consultation for one or more other species, as may be warranted, based on raw observer data recently obtained from the Pacific Islands Forum Fisheries Agency (FFA), located in Honiara, Solomon Islands.

Comment 4: CBD submitted comments stating that in the 2006 BiOp, NMFS estimated that purse seining in the WCPO would take 61 sea turtles annually, and possibly as many as 122. In addition to being caught in nets, NMFS also determined in the 2006 BiOp that ship strikes remain a risk to both sea turtles and marine mammals, though the 2006 BiOp failed to estimate the number of individuals that may be taken in this manner or to set take limits based on assumptions regarding the risk of ship strikes.

Response: The 2006 BiOp provides information on worldwide ship strikes of whales, but indicates that there were no recorded ship strikes in the action area and that observer data for the U.S. WCPO purse seine fishery available at the time indicated that interactions with large whales, including ESA-listed species, were relatively uncommon in both the action area and throughout the Pacific Ocean. According to the 2006 BiOp, of the 292 recorded ship strikes from the years 1975 to 2002, 134 incidents had a known vessel type and fishing vessels were responsible for four of those 134 ship strikes. Thus, NMFS determined that the probability of a vessel in the U.S. WCPO purse seine fishery colliding with listed whale species was low in the action area.

The 2006 BiOp also states that relative to other threats, vessel collisions are not considered a current problem for sea turtle species in the action area, with the possible exception of green and hawksbill turtles in Hawaii and green turtles in Palau. The 2006 BiOp indicates that there are no reports of ship strikes of the U.S. WCPO purse seine fishery on sea turtles. Moreover, the 2006 BiOp states that data regarding sea turtles in the U.S. WCPO purse seine fishery available at the time indicate that all sea turtles caught in nets were released alive.

Comment 5: CBD submitted comments stating that in order for reporting to be meaningful and effective, NMFS must ensure observers are properly trained and that they provide accurate, reliable reports of protected animals taken down to the species level. According to CBD, the 2006 BiOp and the PEA highlight that the quality of purse seine observer data is unacceptably low. Moreover, CBD stated, one of the enforceable terms and conditions in the BiOp is to improve data collection, as NMFS mandated that the agency work to ensure that observers collect standardized information regarding the incidental capture, injury, and mortality of sea turtles including species, gear and set information for each interaction that occurs. That NMFS has no observer data regarding protected species is evidence that this term and condition has not been met. CBD stated that to ensure compliance with the ESA, the observer program must have a separate and equal focus of recording and reporting adequate information on the species taken, the number of impacted individuals in each observed take event, and all observed impacts to these individuals, in light of the low threshold for take. Without this information, it is impossible for NMFS to ensure that the WCPO fishery participants are adhering to the terms of its 2006 Incidental Take Statement (ITS). Additionally, observers should not myopically focus only on net-related take events; instead, they also should be trained and ordered to report on all observed take events, including ship strikes, as other take events may be a significant yet unreported portion of the incidental take within this fishery.

Response: As stated above, beginning in 2010, the U.S. WCPO purse seine fishery has been subject to increased observer coverage requirements adopted by the WCPFC. These observers are deployed by FFA and must undergo specialized training and certifications. FFA observers also have been authorized by the WCPFC to function as WCPFC observers and so meet the training and certification requirements of the WCPFC's Regional Observer Programme. NMFS has provided financial resources to the FFA to support the augmentation of the FFA observer training curriculum to focus on better identification of species of special concern, which include but are not limited to marine mammals, marine reptiles, sharks, and seabirds. FFA-deployed observers on U.S. purse seine vessels have collected specific information on all protected species interactions since 2008. This information is not focused solely on net-related take events. Preliminary raw data are currently available from 2008 to 2014. This raw observer data recently received from the FFA indicates low levels of interactions with some protected species since 2008. This data is currently being analyzed for management use. NMFS is continuing to work with FFA to obtain verified data closer to real-time in accordance with the ITS specified in the 2006 BiOp and the terms and condition of the 2006 BiOp. As stated above, NMFS also is developing a biological assessment for the U.S. WCPO purse seine fishery in anticipation of reinitiating ESA Section 7 consultation for one or more species (other than the Indo-West Pacific DPS of the scalloped hammerhead shark), as may be warranted, based on the observer data recently obtained from FFA.

Comment 6: CBD also provided comments stating that it is crucial that NMFS annually make observer reports available to the public. The last time NMFS made these data available was in the 2006 BiOp, prior to the transition to 100 percent observer coverage. Without these observer data, it is impossible for concerned citizens, scientists, or organizations to evaluate adherence to or the effectiveness of any conservation measures NMFS has proposed and is authorized to enforce. Publishing this information would make it possible for interested parties to independently judge the quality of observer data, and, over the years, track any improvement or decline in the quality of this information. For these reasons and others, it is important that NMFS provide access to this information on a regular basis.

Response: Observer data collected by the FFA observer program are subject to confidential handling under various authorities, including but not limited to the Privacy Act, 5 U.S.C. 552a; Trade Secrets Act, 18 U.S.C. 1905; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.;* Marine Mammal Protection Act, 16 U.S.C. 1361, *et seq.;* South Pacific Tuna Act, 16 U.S.C. 973; and Endangered Species Act, 16 U.S.C. 1531, *et seq.* NMFS endeavors to make information on protected species impacts accessible to the public, but in a format that does not compromise the confidentiality of non-public domain data, or violate the United States' international obligations. NMFS further notes that the dissemination of observer data is outside the scope of this rulemaking.

Comment 7: CBD provided comments stating that NMFS should reinitiate ESA Section 7 consultation for the U.S. WCPO purse seine fishery, based on events and conditions occurring after NMFS finalized its 2006 BiOp. According to CBD, the PEA incorrectly states that the U.S. purse seine fishery operating in the WCPO has had limited interactions with marine mammals in recent years and the number of these interactions and whether the marine mammals were ESA-listed species is unknown at this time. CBD states that the 2006 BiOp includes references to recorded impacts to ESA-listed whales and sea turtles and is evidence that NMFS anticipates future take, by virtue of the incidental take limits set for each species of sea turtle that occurs within the Convention Area. In addition, since 2006, fishing effort has increased dramatically, which requires reinitiation of consultation and revision of the 2006 BiOp. Since 2006, the U.S. WCPO purse seine fishery has increased both in the number of vessels participating and in the total tonnage of fish caught, so the fishery is likely operating in a manner that exceeds the take limits set for each sea turtle species in the 2006 BiOp. The new relaxed fishing vessel registration policy, the four-fold increase in the number of U.S. fishing vessels, and the two-fold increase in fishing effort are more than sufficient to trigger reinitiation of Section 7 consultation. Moreover, the recent changes to the listing status of green and loggerhead turtles trigger reinitiation of consultation. The new DPS for these species contain new information that may affect listed species in a manner or to an extent not previously considered.

Response: NMFS acknowledges CBD's comments. As stated above, observers deployed by the FFA on U.S. purse seine vessels operating in the WCPO currently collect detailed information on incidentally caught species, discards and interactions with species of special interest, including species protected under the ESA and MMPA. Since 2010, there has been observer coverage on virtually 100 percent of U.S. purse seine fishing trips in the Convention Area. NMFS is continuing to analyze the observer-collected data for recent years—that is, for years subsequent to the data used for the completion of the 2006 BiOp. NMFS has reinitiated ESA Section 7 consultation on the effects of the U.S. WCPO purse seine fishery on the Indo-West Pacific DPS of the scalloped hammerhead shark and, as indicated in the SIR, expects that consultation to be completed by the end of 2016. NMFS also is developing a biological assessment for the U.S. WCPO purse seine fishery in anticipation of reinitiating ESA Section 7 consultation for one or more other species under the jurisdiction of NMFS and any new ITS for ESA-listed species will be based on the completed analysis of the best available information. Observer-collected data would be made available, as appropriate, to the public in nonconfidential form through the publication of any Biological Opinion for the fishery.

NMFS acknowledges that the number of vessels participating in the fishery has returned to historic levels since the 2006 BiOP was completed, and the current number of active vessels and the number of sets per year is more similar to the historic activity of the fleet in the late 1990s (see Table 2 of the PEA). However, the number of available licenses from FFA for the fleet that was analyzed within the PEA remains the same, the area where the fishery operates remains essentially the same, and the fishing techniques remain the same. As stated above, NMFS has reinitiated ESA Section 7 consultation on the effects of the U.S. WCPO purse seine fishery on the Indo-West Pacific DPS of the scalloped hammerhead shark and as indicated in the SIR, expects that consultation to be completed by the end of 2016. NMFS also is developing a biological assessment for the U.S. WCPO purse seine fishery in anticipation of reinitiating ESA Section 7 consultation for one or more other species under the jurisdiction of NMFS, as applicable, based on observer data recently obtained from the FFA.

Comment 8: CBD provided comments stating that in its new BiOp, NMFS must set a take limit for any ESA-listed marine mammals that occur within the Convention Area. In the 2006 BiOp, NMFS acknowledged that whales have interacted with nets and risk being struck by fishing vessels, but despite this, the 2006 BiOp failed to set a take limit for listed whale species. Contrary to the conclusions in the 2006 BiOp, any interaction with fishing gear constitutes a take within the meaning of the ESA, and take limits must be set accordingly. Furthermore, NMFS should consider take not only based off of net interactions, but also from probable ship strikes. Considering the real risk of these impacts, it is important for NMFS to reevaluate the risk of take, especially in light of the four-fold increase in U.S. fishing vessels and two-fold increase in fishing effort since NMFS published its WCPO BiOp in 2006. To issue a take limit for ESA-listed marine mammals, NMFS must first issue an MMPA authorization. The MMPA places a moratorium on the taking of marine mammals, and only under limited exceptions to this moratorium may NMFS allow take incidental to commercial fishing operations. NMFS must authorize vessels' take of threatened or endangered marine mammals during a period of up to three years after making a finding of negligible impact and finding that other MMPA requirements are met. NMFS cannot issue such authorization without a thorough analysis of the impacts of the fishery on the listed marine mammals. Thus, adequate monitoring of marine mammal mortality is necessary for continued operation of the fishery.

Response: As stated above, NMFS is developing a biological assessment for the U.S. WCPO purse seine fishery in anticipation of reinitiating ESA Section 7 consultation for one or more other species under the jurisdiction of NMFS, based on recently obtained raw observer data from the FFA. NMFS will analyze the effects of the fishery on any ESA-listed species, including marine mammals, in the action area and develop ITS, as appropriate, based on the best available data. NMFS notes that some of the marine mammal species present in the action area are not ESA-listed or depleted under the MMPA. The U.S. WCPO purse seine fishery has been designated as a Category II fishery under the regulations that govern the incidental take of marine mammals during fishing operations under the MMPA. This means that the fishery is considered to result in occasional serious injuries and mortalities to marine mammals. NMFS is continuing to analyze observer-collected data, as well as other available data, and will follow the process to obtain the appropriate permits under the MMPA if they indicate that incidental takes of ESA-listed marine mammals have occurred in the U.S. WCPO purse seine fishery.

Changes From Proposed Rule

No changes from the proposed regulations have been made in these final regulations.

Classification

The Administrator, Pacific Islands Region, NMFS, has determined that this final rule is consistent with the WCPFC Implementation Act and other applicable laws.

Administrative Procedure Act

There is good cause under 5 U.S.C. 553(d)(3) to establish an effective date less than 30 days after date of publication for the purse seine FAD restrictions and the 2016 longline bigeye tuna catch limit. NMFS must establish the FAD restrictions by July 1, 2016, to comply with the provisions of CMM 2015–01. With respect to the longline bigeye tuna catch limit, NMFS' latest forecast indicates that the 2016 limit of 3,554 mt could be reached in the latter half of July. Also, in the event the catch limit is expected to be reached, the regulations at 50 CFR 300.224(e) provide for NMFS to publish the notice announcing fishing prohibitions at least seven days in advance of the date the prohibitions go into effect. Thus, there would be substantial risk of the 2016 longline bigeye tuna catch limit being exceeded if this rule is not made effective by July 1, 2016. The FAD restrictions and longline bigeye tuna catch limits are intended to reduce or otherwise control fishing pressure on bigeye tuna in the WCPO in order to restore this stock to levels capable of producing maximum sustainable yield on a continuing basis. According to the NMFS stock status determination criteria, bigeye tuna in the Pacific Ocean is currently experiencing overfishing. Failure to establish the FAD restrictions and the 2016 longline bigeye tuna catch limit by July 1, 2016, would result in additional fishing pressure on this stock, and would be inconsistent with CMM 2015–01. Thus, NMFS finds that delaying the effective date of the FAD restrictions and the 2016 longline bigeye tuna catch limit past July 1, 2016, would be contrary to the public interest.

Executive Order 12866

This final rule has been determined to be not significant for purposes of Executive Order 12866.

Regulatory Flexibility Act (RFA)

A final regulatory flexibility analysis (FRFA) was prepared as required by section 604 of the RFA. The FRFA incorporates the initial regulatory flexibility analysis (IRFA) prepared for the proposed rule. The analysis in the IRFA is not repeated here in its entirety. A description of the action, why it is being considered, and the legal basis for this action are contained in the SUMMARY section of the preamble and in other sections of this SUPPLEMENTARY INFORMATION section of this final rule, above. The analysis follows:

Significant Issues Raised by Public Comments in Response to the IRFA

NMFS did not receive any comments on the IRFA, but the Hawaii Longline Association provided comments on the economic impacts of the longline bigeye tuna catch limit established in a previous rule, for 2015, and requested that NMFS act promptly and with all due diligence in completing the territory specification rulemaking process in 2016 (see comment 2 and NMFS' response, above).

Description of Small Entities to Which the Rule Will Apply

Small entities include "small businesses," "small organizations," and "small governmental jurisdictions." The Small Business Administration (SBA) has established size standards for all major industry sectors in the United States, including commercial finfish harvesters (NAICS code 114111). A business primarily involved in finfish harvesting is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including its affiliates), and has combined annual receipts not in excess of $20.5 million for all its affiliated operations worldwide.

The final rule applies to owners and operators of U.S. purse seine and longline vessels used for fishing for HMS in the Convention Area. The number of purse seine vessels affected by the rule is approximated by the number with WCPFC Area Endorsements, which are the NMFS-issued authorizations required to use a vessel to fish commercially for HMS on the high seas in the Convention Area. As of May 2016 the number of purse seine vessels with WCPFC Area Endorsements was 41.

The final rule applies to U.S. longline vessels used to fish for HMS in the Convention Area, except those operating as part of the longline fisheries of American Samoa, the CNMI, or Guam. The total number of affected longline vessels is approximated by the number of vessels with Hawaii Longline Limited Access Permits (issued under 50 CFR 665.13), although some such vessels might be able to operate as part of the longline fisheries of the U.S. Participating Territories and thus not be affected. Under the Hawaii longline limited access program, no more than 164 permits may be issued. During 2006–2012 the number of permitted vessels ranged from 130 to 145. The number of permitted vessels as of April 2016 was 139. U.S. longline vessels based on the U.S. west coast without Hawaii Longline Limited Access Permits also could be affected by this rule if they fish in the Convention Area. However, the number of such vessels is very small and fishing in the Convention Area by such vessels is rare, so it is expected that very few, if any, such vessels will be affected.

Most of the Hawaii longline fleet targets bigeye tuna using deep sets, and during certain parts of the year, portions of the fleet target swordfish using shallow sets. In the years 2005 through 2013, the estimated numbers of Hawaii longline vessels that actually fished ranged from 124 to 135. Of the vessels that fished, the number of vessels that engaged in deep-setting in the years 2005 through 2013 ranged from 122 to 135, and the number of vessels that engaged in shallow-setting ranged from 15 to 35. The number of vessels that engaged in both deep-setting and shallow-setting ranged from 15 to 35. The number of vessels that engaged exclusively in shallow-setting ranged from zero to two.

Based on limited available financial information about the affected fishing vessels and the SBA's small entity size standards for commercial finfish harvesters, and using individual vessels as proxies for individual businesses, NMFS believes that all the affected fish harvesting businesses—in both the purse seine and longline sectors—are small entities. NMFS used estimates of average per-vessel returns over recent years to estimate annual revenue, because gross receipts and ex-vessel price information specific to the individual affected vessels are not available to NMFS.

For the affected purse seine vessels, 2013 is the most recent year for which complete catch data are available, and NMFS estimates that the average annual receipts over 2011–2013 for each purse seine vessel were less than the $20.5 million threshold for finfish harvesting businesses. The greatest was about $20 million, and the average was about $12 million. This is based on the estimated catches of each vessel in the purse seine fleet during that period, and indicative regional cannery prices developed by the FFA (available at *https://www.ffa.int/node/425*). Since 2013, cannery prices for purse seine-caught tuna have declined dramatically, so the vessels' revenues in 2014 and 2015 very likely declined as well.

For the longline fishery, the ex-vessel value of catches in the Hawaii longline fishery in 2013 was about $0.7 million per vessel, on average, well below the $20.5 million threshold for finfish harvesting businesses.

Recordkeeping, Reporting, and Other Compliance Requirements

The recordkeeping, reporting, and other compliance requirements are discussed below for each element of the final rule, as described earlier in the SUPPLEMENTARY INFORMATION section of the preamble. Fulfillment of these requirements is not expected to require any professional skills that the affected vessel owners and operators do not already possess. The costs of complying with the requirements are described below to the extent possible:

1. Purse Seine Observer Requirements

This element of the final rule does not establish any new reporting or recordkeeping requirements. The new compliance requirement is for affected vessel owners and operators to carry

WCPFC observers on all fishing trips in the Convention Area between the latitudes of 20 °N. and 20 °S., with the exception of fishing trips during which any fishing in the Convention Area takes place entirely within areas under the jurisdiction of a single nation other than the United States. The expected costs of complying with this requirement are described below.

Under the South Pacific Tuna Treaty (SPTT), U.S. purse seine vessels operating in the Treaty Area (which is almost entirely in the Convention Area) are required to carry observers on about 20 percent of their fishing trips, which equates to roughly one trip per year per vessel. The observers required under the terms of the SPTT are deployed by the FFA, which acts as the SPTT Administrator on behalf of the Pacific Island Parties to the SPTT. The FFA observer program has been authorized to be part of the WCPFC observer program, so FFA-deployed observers are also WCPFC observers. Thus, in a typical year for a typical U.S. purse seine vessel, the cost of carrying observers to satisfy requirements under the SPTT can be expected to constitute 20 percent of the costs of the requirement in this rule. However, recent events associated with the SPTT make 2016 an atypical year. Because of late negotiations among the SPTT parties on the terms of access in foreign zones in the SPTT Area for 2016, no U.S. vessels were licensed under the SPTT until March of 2016, and thus none were authorized to fish in foreign zones or on the high seas in the Treaty Area until then. The terms of access for future years, and the SPTT itself, are uncertain. Given this uncertainty, an upper-bound estimate of the costs of compliance is provided here. For this purpose, it is assumed that fishing patterns in the Convention Area will be similar to the pattern in recent years, and that observer coverage under the terms of the SPTT will not contribute at all to the costs of complying with this requirement.

Based on the U.S. purse seine fleet's fishing patterns in 2011–2013, it is expected that each vessel will spend about 252 days at sea per year, on average, with some vessels spending as many as about 354 days at sea per year.

The compliance costs of the requirement can be broken into two parts: 1) The costs of providing food, accommodation, and medical facilities to observers (observer accommodation costs); and 2) the fees imposed by observer providers for deploying observers (observer deployment costs). Observer accommodation costs are expected to be about $20 per vessel per day-at-sea.

With respect to observer deployment costs, affected fishing companies can use observers from any program that has been authorized by the Commission to be part of the WCPFC Regional Observer Programme. In other words, they are not required to use FFA observers, which they have traditionally used until now. Nonetheless, the costs of deploying FFA observers are probably good indications of observer deployment costs in the region generally, and they are used for this analysis. Based on budgets and arrangements for the deployment of observers under the FFA observer program, observer deployment costs are expected to be about $230 per vessel per day-at-sea. Thus, combined observer accommodation costs and observer deployment costs are expected to be about $250 per vessel per day-at-sea. For the average vessel, which is expected to spend about 252 days at sea per year, the total cost of compliance are therefore expected to be about $63,000 per year. The cost for vessels that spend fewer days at sea will be accordingly less. At the other extreme, if a vessel spends 354 days at sea (the top of the range in 2011–2013), the total cost of compliance will be about $88,500 per year. Both of these figures are upper-bound estimates. If arrangements under the SPTT return to something like they have been in the past, then the numbers of days spent at sea on fishing trips in the Convention Area are likely to be close to the levels described above, but the compliance costs will be about 20 percent less than estimated above because observer coverage under the SPTT will satisfy about 20 percent of the coverage required under this rule. If arrangements under the SPTT do not return to something like they have been in the recent past, then the number of days spent at sea on fishing trips in the Convention Area could be substantially lower than as described above, and the costs of complying with this requirement will be accordingly less.

2. Purse Seine FAD Restrictions for 2016–2017

This element of the final rule does not establish any new reporting or recordkeeping requirements. The new requirement is for affected vessel owners and operators to comply with the FAD restrictions described earlier in the **SUPPLEMENTARY INFORMATION** section of the preamble, including FAD prohibition periods from July 1 through September 30 in each of 2016 and 2017; limits of 2,522 FAD sets that may be made in each of 2016 and 2017; and prohibitions on specific uses of FADs on the high seas in 2017. The expected costs of complying with this requirement are described below to the extent possible.

The FAD restrictions will substantially constrain the manner in which purse seine fishing can be conducted in the specified areas and periods in the Convention Area; in those areas and during those periods, vessels will be able to set only on free, or "unassociated," schools.

The costs associated with the FAD restrictions cannot be quantitatively estimated, but the fleet's historical use of FADs can give a qualitative indication of the costs. In the years 1997–2013, the proportion of sets made on FADs in the U.S. purse seine fishery ranged from less than 30 percent in some years to more than 90 percent in others. Thus, the importance of FAD sets in terms of profits appears to be quite variable over time, and is probably a function of many factors, including fuel prices (unassociated sets involve more searching time and thus tend to bring higher fuel costs than FAD sets) and market conditions (*e.g.*, FAD fishing, which tends to result in greater catches of lower-value skipjack tuna and smaller yellowfin tuna and bigeye tuna than unassociated sets, might be more attractive and profitable when canneries are not rejecting small fish). Thus, the costs of complying with the FAD restrictions will depend on a variety of factors.

In 2010–2013, the last 4 years for which complete data are available and for which there was 100 percent observer coverage, the U.S. WCPO purse seine fleet made about 39 percent of its sets on FADs. During the months when setting on FADs was allowed, the percentage was about 58 percent. The fact that the fleet has made such a substantial portion of its sets on FADs indicates that prohibiting the use of FADs in the specified areas and periods could bring substantial costs and/or revenue losses.

To mitigate these impacts, vessel operators might choose to schedule their routine vessel and equipment maintenance during the FAD prohibition periods. However, the limited number of vessel maintenance facilities in the region might constrain vessel operators' ability to do this. It also is conceivable that some vessels might choose not to fish at all during the FAD prohibition periods rather than fish without the use of FADs. Observations of the fleet's behavior in 2009–2013, when FAD prohibition periods were in effect, do not suggest that either of these responses occurred to an appreciable degree. The proportion of the fleet that fished during the two- and three-month FAD prohibition periods of 2009–2013 did not appreciably differ from the proportion that fished during the same months in the years 1997–2008, when no FAD prohibition periods were in place.

The FAD restrictions for 2016 are similar to those in place in 2013–2015, except that there is a limit of 2,522 FAD sets instead of the October FAD prohibition period that was in place in 2013–2015. 2016 is an unusual year in that SPTT licenses for 2016 were not issued until March, and the number of licensed vessels (34 as of May 2016) is fewer than in recent years. Thus, the level of purse seine fishing effort to date in the Convention Area in 2016 is somewhat lower than typical levels in recent years. As a result, the expected amount of fishing effort in the Convention Area in 2016 is expected to be substantially less than in recent years. Consequently, the 2,522 FAD set limit will be less constraining than it would be if fishing effort were greater. For example, if total fishing effort in 2016 is 5,000 fishing days (about 62% of the average in 2010–2013), and the average number of sets made per fishing day is the same as in 2010–2013 (0.97), and the average number of all sets that are FAD sets ("FAD set ratio") during periods when FAD sets are allowed is the same as in 2010–2013 (58%), and if fishing effort is evenly distributed through the year, then the number of FAD sets expected in 2016 under the final rule will be about 2,130, somewhat less than the limit of 2,522. Under the assumptions described above, the limit of 2,522 FAD sets will start to become constraining at a total fishing effort level of 5,900 fishing days.

The effects of the FAD restrictions in 2017 will likely be greater than in 2016 because of the additional prohibition on setting on FADs on the high seas. The magnitude of that additional impact cannot be predicted, but as an indication of the additional impact, in 2010–2013, about 10 percent of the fleet's fishing effort occurred on the high seas. As in 2016, the impact of the 2,522 FAD set limit in 2017 will be primarily a function of the fleet's total level of fishing effort. Given the uncertainty related to the future of the SPTT, fishing effort in 2017 is very difficult to predict. As described above for 2016, the limit will start to become constraining at a fishing effort level of about 5,900 fishing days, but in 2017 that threshold will be applicable only in the portion of the Convention Area that is not high seas (again, about 10 percent of fishing effort has occurred on the high seas in recent years).

In summary, the economic impacts of the FAD prohibition periods and FAD set limits in 2016 and 2017 and the prohibition on using FADs on the high seas throughout 2017 cannot be quantified, but they could be substantial. Their magnitude will depend in part on market conditions, oceanic conditions, and the fleet's fishing effort in 2016 and 2017, which will be determined in part by any limits on allowable levels of fishing effort in foreign EEZs and on the high seas in the Convention Area.

3. Longline Bigeye Tuna Catch Limits for 2016–2017

This element of the final rule will not establish any new reporting or recordkeeping requirements. The new compliance requirement is for affected vessel owners and operators to cease retaining, landing, and transshipping bigeye tuna caught with longline gear in the Convention Area if and when the bigeye tuna catch limit is reached in 2016 (3,554 mt) or 2017 (3,345 mt), for the remainder of the calendar year, subject to the exceptions and provisos described in other sections of this **SUPPLEMENTARY INFORMATION** section of the preamble. Although the restrictions that will come into effect in the event the catch limit is reached will not prohibit longline fishing, *per se*, they are sometimes referred to in this analysis as constituting a fishery closure. The costs of complying with this requirement are described below to the extent possible.

Complying with this element of the final rule could cause foregone fishing opportunities and result in associated economic losses in the event that the bigeye tuna catch limit is reached in 2016 or 2017 and the restrictions on retaining, landing, and transshipping bigeye tuna are imposed for portions of either or both of those years. These costs cannot be projected quantitatively with any certainty. The limits of 3,554 mt for 2016 and 3,345 mt for 2017 can be compared to catches in 2005–2008, before limits were in place. The average annual catch in that period was 4,709 mt. Based on that history, as well as fishing patterns in 2009–2015, when limits were in place, there appears to be a relatively high likelihood of the limits being reached in 2016 and 2017. 2015 saw exceptionally high catches of bigeye tuna. Although final estimates for 2015 are not available, the limit of 3,502 mt was estimated to have been reached by, and the fishery was closed on, August 5 (see temporary rule published July 28, 2015; 80 FR 44883). The fishery was subsequently re-opened for vessels included in agreements with the governments of the CNMI and Guam under regulations implementing Amendment 7 to the Fishery Ecosystem Plan for Pelagic Fisheries of the Western Pacific Region (Pelagics FEP) (50 CFR 665.819). If bigeye tuna catch patterns in 2016 or 2017 are like those in 2005–2008, the limits will likely be reached in the fourth quarter of the year. If catches are more accelerated, as in 2015, the limits could be reached in the third quarter of the year.

If the bigeye tuna limit is reached before the end of 2016 or 2017 and the Convention Area longline bigeye tuna fishery is consequently closed for the remainder of the calendar year, it can be expected that affected vessels would shift to the next most profitable fishing opportunity (which might be not fishing at all). Revenues from that next best alternative activity reflect the opportunity costs associated with longline fishing for bigeye tuna in the Convention Area. The economic cost of the rule would not be the direct losses in revenues that would result from not being able to fish for bigeye tuna in the Convention Area, but rather the difference in benefits derived from that activity and those derived from the next best activity. The economic cost of the rule on affected entities is examined here by first estimating the direct losses in revenues that would result from not being able to fish for bigeye tuna in the Convention Area as a result of the catch limit being reached. Those losses represent the upper bound of the economic cost of the rule on affected entities. Potential next-best alternative activities that affected entities could undertake are then identified in order to provide a (mostly qualitative) description of the degree to which actual costs would be lower than that upper bound.

Upper bounds on potential economic costs can be estimated by examining the projected value of longline landings from the Convention Area that would not be made as a result of reaching the limit. For this purpose, it is assumed that, absent this rule, bigeye tuna catches in the Convention Area in each of 2016 and 2017 would be 5,000 mt, slightly more than the average in 2005–2008. Under this scenario, imposition of limits of 3,554 mt for 2016 and 3,345 mt for 2017 would result in 29 percent and 33 percent less bigeye tuna being caught in those two years, respectively, than under no action. In the deep-set fishery, catches of marketable species other than bigeye tuna would likely be affected in a similar way if vessels do not shift to alternative activities. Assuming for the moment that ex-vessel prices would not be affected by a fishery closure, under the rule, revenues in 2016 and 2017 to entities that participate exclusively in the deep-set fishery would be approximately 29 and 33 percent less than under no action in 2016 and 2017, respectively. Average annual ex-vessel revenues (from all species) per mt of bigeye tuna caught during 2005–2008 were about $14,332/mt (in 2015 dollars, derived from the latest available annual report on the pelagic fisheries of the western Pacific Region (Western Pacific Regional Fishery Management Council, 2016, Pelagic Fisheries of the Western Pacific Region: 2013 Annual Report. Honolulu, Western Pacific Fishery Management Council). If there are 128 active vessels in the fleet, as there were during 2005–2008, on average, then under the no-action scenario of fleet-wide annual catches of 5,000 mt, each vessel would catch 39 mt/yr, on average. Reductions of 29 percent and 33 percent in 2016 and 2017, respectively, as a result of the limits would be about 11 mt and 13 mt, respectively. Applying the average ex-vessel revenues (from all species) of $14,332 per mt of bigeye tuna caught, the reductions in ex-vessel revenue per vessel would be $162,000 and $185,000, on average, for 2016 and 2017, respectively.

In the shallow-set fishery, affected entities would bear limited costs in the event of the limit being reached (but most affected entities also participate in the deep-set fishery and might bear costs in that fishery, as described below). The cost would be about equal to the revenues lost from not being able to retain or land bigeye tuna captured while shallow-setting in the Convention Area, or the cost of shifting to shallow-setting in the eastern Pacific Ocean (EPO), which is to the east of 150 degrees W. longitude, whichever is less. In the fourth calendar quarters of 2005–2008, almost all shallow-setting effort took place in the EPO, and 97 percent of bigeye tuna catches were made there, so the cost of a bigeye tuna fishery closure to shallow-setting vessels would appear to be very limited. During 2005–2008, the shallow-set fishery caught an average of 54 mt of bigeye tuna per year from the Convention Area. If the bigeye tuna catch limit is reached even as early as July 31 in 2016 or 2017, the Convention Area shallow-set fishery would have caught at that point, based on 2005–2008 data, on average, 99 percent of its average annual bigeye tuna catches. Imposition of the landings restriction at that point in 2016 or 2017 would result in the loss of revenues from approximately 0.5 mt (1 percent of 54 mt) of bigeye tuna, which, based on recent ex-vessel prices, would be worth no more than $5,000. Thus, expecting about 26 vessels to engage in the shallow-set fishery (the annual average in 2005–2013), the average of those potentially lost annual revenues would be no more than $200 per vessel. The remainder of this analysis focuses on the potential costs of compliance in the deep-set fishery.

It should be noted that the impacts on affected entities' profits would be less than impacts on revenues when considering the costs of operating vessels, because costs would be lower if a vessel ceases fishing after the catch limit is reached. Variable costs can be expected to be affected roughly in proportion to revenues, as both variable costs and revenues would stop accruing once a vessel stops fishing. But affected entities' costs also include fixed costs, which are borne regardless of whether a vessel is used to fish—*e.g.*, if it is tied up at the dock during a fishery closure. Thus, profits would likely be adversely impacted proportionately more than revenues.

As stated previously, actual compliance costs for a given entity might be less than the upper bounds described above, because ceasing fishing would not necessarily be the most profitable alternative opportunity when the catch limit is reached. Two alternative opportunities that are expected to be attractive to affected entities include: (1) Deep-set longline fishing for bigeye tuna in the Convention Area in a manner such that the vessel is considered part of the longline fishery of American Samoa, Guam, or the CNMI; and (2) deep-set longline fishing for bigeye tuna and other species in the EPO. These two opportunities are discussed in detail below. Four additional opportunities are: (3) Shallow-set longline fishing for swordfish (for deep-setting vessels that would not otherwise do so), (4) deep-set longline fishing in the Convention Area for species other than bigeye tuna, (5) working in cooperation with vessels operating as part of the longline fisheries of the Participating Territories—specifically, receiving transshipments at sea from them and delivering the fish to the Hawaii market, and (6) vessel repair and maintenance. A study by NMFS of the effects of the WCPO bigeye tuna longline fishery closure in 2010 (Richmond, L., D. Kotowicz, J. Hospital and S. Allen, 2015, Monitoring socioeconomic impacts of Hawai'i's 2010 bigeye tuna closure: Complexities of local management in a global fishery, Ocean & Coastal Management 106:87–96) did not identify the occurrence of any alternative activities that vessels engaged in during the closure, other than deep-setting for bigeye tuna in the EPO, vessel maintenance and repairs, and granting lengthy vacations to employees. Based on those findings, NMFS expects that alternative opportunities (3), (4), (5) and (6) are probably unattractive relative to the first two alternatives, and are not discussed here in any further detail. NMFS recognizes that vessel maintenance and repairs and granting lengthy vacations to employees are two alternative activities that might be taken advantage of if the fishery is closed, but no further analysis of their mitigating effects is provided here.

Before examining in detail the two potential alternative fishing opportunities that would appear to be the most attractive to affected entities, it is important to note that under the rule, once the limit is reached and the WCPO bigeye tuna fishery is closed, fishing with longline gear both inside and outside the Convention Area during the same trip would be prohibited (except in the case of a fishing trip that is in progress when the limit is reached and the restrictions go into effect). For example, after the restrictions go into effect, during a given fishing trip, a vessel could be used for longline fishing for bigeye tuna in the EPO or for longline fishing for species other than bigeye tuna in the Convention Area, but not for both. This reduced operational flexibility would bring costs, since it would constrain the potential profits from alternative opportunities. Those costs cannot be quantified.

A vessel could take advantage of the first alternative opportunity (deep-setting for bigeye tuna in a manner such that the vessel is considered part of the longline fishery of one of the three U.S. Participating Territories), by three possible methods: (a) Landing the bigeye tuna in one of the three Participating Territories, (b) holding an American Samoa Longline Limited Access Permit, or (c) being considered part of a Participating Territory's longline fishery, by agreement with one or more of the three Participating Territories under the regulations implementing Amendment 7 to the Pelagics FEP (50 CFR 665.819). In the first two circumstances, the vessel would be considered part of the longline fishery of the Participating Territory only if the bigeye tuna were not caught in the portion of the U.S. EEZ around the Hawaiian Islands and were landed by a U.S. vessel operating in compliance with a permit issued under the regulations implementing the Pelagics FEP or the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species.

With respect to the first method of engaging in alternative opportunity 1 (1.a.) (landing the bigeye tuna in one of the Participating Territories), there are three potentially important constraints. First, whether the fish are landed by the vessel that caught the fish or by a vessel to which the fish were transshipped, the costs of a vessel transiting from the traditional fishing grounds in the vicinity of the Hawaiian Archipelago to one of the Participating Territories would be substantial. Second, none of these three locales has large local consumer markets to absorb substantial additional landings of fresh sashimi-grade bigeye tuna. Third, transporting the bigeye tuna from these locales to larger markets, such as markets in Hawaii, the U.S. west coast, or Japan, would bring substantial additional costs and risks. These cost constraints suggest that this alternative opportunity has limited potential to mitigate the economic impacts of the rule on affected small entities.

The second method of engaging in the first alternative opportunity (1.b.) (having an American Samoa Longline Limited Access Permit), would be available only to the subset of the Hawaii longline fleet that has both Hawaii and American Samoa longline permits (dual permit vessels). Vessels that do not have both permits could obtain them if they meet the eligibility requirements and pay the required costs. For example, the number of dual permit vessels increased from 12 in 2009, when the first WCPO bigeye tuna catch limit was established, to 20 in both 2011 and 2012. The previously cited NMFS study of the 2010 fishery closure (Richmond et al. 2015) found that bigeye tuna landings of dual permit vessels increased substantially after the start of the closure on November 22, 2010, indicating that this was an attractive opportunity for dual permit vessels, and suggesting that those entities might have benefitted from the catch limit and the closure.

The third method of engaging in the first alternative opportunity (1.c.) (entering into an Amendment 7 agreement), was also available in 2011–2015 (in 2011–2013, under section 113(a) of Public Law 112–55, 125 Stat. 552 *et seq.*, the Consolidated and Further Continuing Appropriations Act, 2012, continued by Public Law 113–6, 125 Stat. 603, section 110, the Department of Commerce Appropriations Act, 2013; hereafter, "section 113(a)"). As a result of agreements that were in place in 2011–2014, the WCPO bigeye tuna fishery was not closed in any of those four years because the annual limit for U.S. longline fisheries adopted by the WCPFC was not reached. In 2015 the fishery was closed in August but then reopened when agreements with the CNMI, and later with Guam, went into effect. Participation in an Amendment 7 agreement would likely not come without costs to fishing businesses. As an indication of the possible cost, the terms of the agreement between American Samoa and the members of the Hawaii Longline Association (HLA) in effect in 2011 and 2012 included payments totaling $250,000 from the HLA to the Western Pacific Sustainable Fisheries Fund, equal to $2,000 per vessel. It is not known how the total cost was allocated among the members of the HLA, so it is possible that the owners of particular vessels paid substantially more than or less than $2,000.

The second alternative opportunity (2) (deep-set fishing for bigeye tuna in the EPO), would be an option for affected entities only if it is allowed under regulations implementing the decisions of the Inter-American Tropical Tuna Commission (IATTC). Annual longline bigeye tuna catch limits have been in place for the EPO in most years since 2004. Since 2009, a bigeye tuna catch limit of 500 mt for 2016 has applied to U.S. longline vessels greater than 24 meters (m) in length (50 CFR 300.25), and the limits were reached in 2013 (November 11), 2014 (October 31), and 2015 (August 12). The highly seasonal nature of bigeye tuna catches in the EPO and the relatively high inter-annual variation in catches prevents NMFS from making a useful prediction of whether and when the limit in 2016 is likely to be reached. However, the trend in 2013–2015 suggests a relatively high likelihood of it being reached in 2016. If it is reached, this alternative opportunity would not be available for large longline vessels, which constitute about a quarter of the fleet. Currently there is no limit in place for 2017; the IATTC would have to take further action to adopt a limit for 2017, and NMFS would then need to implement it to put it into effect.

Historical fishing patterns can provide an indication of the likelihood of affected entities making use of the opportunity of deep-setting in the EPO in the event of a closure in the WCPO. The proportion of the U.S. fishery's annual bigeye tuna catches that were captured in the EPO from 2005 through 2008 ranged from 2 percent to 22 percent, and averaged 11 percent. In 2005–2007, that proportion ranged from 2 percent to 11 percent, and may have been constrained by the IATTC-adopted bigeye tuna catch limits established by NMFS (no limit was in place for 2008). Prior to 2009, most of the U.S. annual bigeye tuna catch by longline vessels in the EPO typically was made in the second and third quarters of the year; in 2005–2008 the percentages caught in the first, second, third, and fourth quarters were 14, 33, 50, and 3 percent, respectively. These data demonstrate two historical patterns—that relatively little of the bigeye tuna catch in the longline fishery was typically taken in the EPO (11 percent in 2005–2008, on average), and that most EPO bigeye tuna catches were made in the second and third quarters, with relatively few catches in the fourth quarter when the catch limit will most likely be reached. These two patterns suggest that there could be substantial costs for at least some affected entities that shift to deep-set fishing in the EPO in the event of a closure in the WCPO. On the other hand, fishing patterns since 2008 suggest that a substantial shift in deep-set fishing effort to the EPO could occur. In 2009, 2010, 2011, 2012, 2013, and 2014, the proportions of the fishery's annual bigeye tuna catches that were captured in the EPO were about 16, 27, 23, 19, 36, and 36 percent, respectively, and most bigeye tuna catches in the EPO were made in the latter half of the calendar years.

The NMFS study of the 2010 closure (Richmond et al. 2015) found that some businesses—particularly those with smaller vessels—were less inclined than others to fish in the EPO during the closure because of the relatively long distances that would need to be travelled in the relatively rough winter ocean conditions. The study identified a number of factors that likely made fishing in the EPO less lucrative than fishing in the WCPO during that part of the year, including fuel costs and the need to limit trip length in order to maintain fish quality and because of limited fuel storage capacity.

In addition to affecting the volume of landings of bigeye tuna and other species, the catch limits could affect fish prices, particularly during a fishery closure. Both increases and decreases appear possible. After a limit is reached and landings from the WCPO are prohibited, ex-vessel prices of bigeye tuna (*e.g.*, that are caught in the EPO or by vessels in the longline fisheries of the three U.S. Participating Territories), as well as of other species landed by the fleet, could increase as a result of the constricted supply. This would mitigate economic losses for vessels that are able to continue fishing and landing bigeye tuna during the closure. For example, the NMFS study of the 2010 closure (Richmond et al. 2015) found that ex-vessel prices during the closure in December were 50 percent greater than the average during the previous five Decembers. (It is emphasized that because it was an observational study, neither this nor other observations of what occurred during the closure can be affirmatively linked as effects of the fishery closure.)

Conversely, a WCPO bigeye tuna fishery closure could cause a decrease in ex-vessel prices of bigeye tuna and other products landed by affected entities if the interruption in the local supply prompts the Hawaii market to shift to alternative (*e.g.,* imported) sources of bigeye tuna. Such a shift could be temporary—that is, limited to 2016 and/or 2017—or it could lead to a more permanent change in the market (*e.g.,* as a result of wholesale and retail buyers wanting to mitigate the uncertainty in the continuity of supply from the Hawaii longline fisheries). In the latter case, if locally caught bigeye tuna fetches lower prices because of stiffer competition with imported bigeye tuna, then ex-vessel prices of local product could be depressed indefinitely. The NMFS study of the 2010 closure (Richmond et al. 2015) found that a common concern in the Hawaii fishing community prior to the closure in November 2010 was retailers having to rely more heavily on imported tuna, causing imports to gain a greater market share in local markets. The study found this not to have been borne out, at least not in 2010, when the evidence gathered in the study suggested that few buyers adapted to the closure by increasing their reliance on imports, and no reports or indications were found of a dramatic increase in the use of imported bigeye tuna during the closure. The study concluded, however, that the 2010 closure caused buyers to give increased consideration to imports as part of their business model, and it was predicted that tuna imports could increase during any future closure. To the extent that ex-vessel prices would be reduced by this action, revenues earned by affected entities would be affected accordingly, and these impacts could occur both before and after the limit is reached, and as described above, possibly after 2017.

The potential economic effects identified above would vary among individual business entities, but it is not possible to predict the range of variation. Furthermore, the impacts on a particular entity would depend on both that entity's response to the rule and the behavior of other vessels in the fleet, both before and after the catch limit is reached. For example, the greater the number of vessels that take advantage—before the limit is reached—of the first alternative opportunity (1), fishing as part of one of the Participating Territory's fisheries, the lower the likelihood that the limit would be reached. The fleet's behavior in 2011 and 2012 is illustrative. In both those years, most vessels in the Hawaii fleet were included in a section 113(a) arrangement with the government of American Samoa, and as a consequence, the U.S. longline catch limit was not reached in either year. Thus, none of the vessels in the fleet, including those not included in the section 113(a) arrangements, were prohibited from fishing for bigeye tuna in the Convention Area at any time during those two years. The fleet's experience in 2010 (before opportunities under section 113(a) or Amendment 7 to the Pelagics FEP were available) provides another example of how economic impacts could be distributed among different entities. In 2010 the limit was reached and the WCPO bigeye tuna fishery was closed on November 22. As described above, dual permit vessels were able to continue fishing outside the U.S. EEZ around the Hawaiian Archipelago and benefit from the relatively high ex-vessel prices that bigeye tuna fetched during the closure.

In summary, based on potential reductions in ex-vessel revenues, NMFS has estimated that the upper bound of potential economic impacts of the rule on affected longline fishing entities could be roughly $162,000 per vessel, on average, in 2016 and $185,000 per vessel, on average, in 2017. The actual impacts to most entities are likely to be substantially less than those upper bounds, and for some entities the impacts could be neutral or positive (*e.g.,* if one or more Amendment 7 agreements are in place in 2016 and 2017 and the terms of the agreements are such that the U.S. longline fleet is effectively unconstrained by the catch limits).

Disproportionate Impacts

As indicated above, all affected entities are believed to be small entities, so small entities would not be disproportionately affected relative to large entities. Nor would there be disproportionate economic impacts based on home port.

Purse seine vessels would be impacted differently than longline vessels, but whether the impacts would be disproportional between the two gear types cannot be determined.

For the longline sector, as described above, there could be disproportionate impacts according to vessel type and size and the type of fishing permits held. A vessel with both a Hawaii Longline Limited Access Permit and an American Samoa Longline Limited Access Permit would be considered part of the American Samoa longline fishery (except when fishing in the U.S. EEZ around the Hawaiian Archipelago), so it would not be subject to the catch limits. Because the EPO bigeye tuna catch limit for 2016 applies only to vessels greater than 24 m in length, in the event that the WCPO bigeye tuna fishery is closed and the 500 mt limit is reached in the EPO, only vessels 24 m or less in length would be able to take advantage of the alternative opportunity of deep-setting for bigeye tuna in the EPO. On the other hand, smaller vessels can be expected to find it more difficult, risky, and/or costly to fish in the EPO during the relatively rough winter months than larger vessels. If there are any large entities among the affected entities, and if the vessels of the large entities are larger than those of small entities, then it is possible that small entities could be disproportionately affected relative to large entities.

Steps Taken To Minimize the Significant Economic Impacts on Small Entities

NMFS has sought to identify alternatives that would minimize the rule's economic impact on small entities ("significant alternatives"). Taking no action could result in lesser adverse economic impacts than the action for affected entities in the purse seine and longline fisheries (but as described below, for some affected longline entities, the rule could be more economically beneficial than no-action), but NMFS has determined that the no-action alternative would be inconsistent with the United States' obligations under the Convention, and NMFS has rejected it for that reason. Alternatives identified for each of the three elements of the rule are discussed below.

1. Purse Seine Observer Requirements

NMFS has not identified any significant alternatives to the purse seine observer requirements that would comport with U.S. obligations to implement the Commission decisions regarding observer coverage.

2. Purse Seine FAD Restrictions for 2016–2017

NMFS considered in detail one set of alternatives to the restrictions on the use of FADs. Under CMM 2015–01, the United States could use either of two options in either of 2016 and 2017 (in addition to the three-month FAD closure periods in both years and the prohibition on FAD sets on the high seas in 2017). One option is a fourth-month FAD prohibition period, in October. The second option, which is part of this rule, is an annual limit of 2,522 FAD sets. The relative effects of the two options would depend on the total amount of fishing effort exerted by the U.S. purse seine fleet in the Convention Area in a given year. If total fishing effort is relatively high, an October FAD prohibition period would likely allow for more FAD sets than a limit of 2,522 FAD sets, and thus likely cause lesser adverse impacts. The opposite would be the case for relatively low levels of total fishing effort. For example, given the fleet's recent historical average FAD set ratio of 58 percent when FAD-setting is allowed (2010–2013), and assuming an even distribution of sets throughout the year, the estimated "breakeven" point between the two options is 6,502 total sets for the year. The levels of fishing effort in 2016 and 2017 are very difficult to predict; they will be determined largely by the level of participation in the fishery (number of vessels) and any limits imposed on fishing effort. Fishing effort in foreign zones and on the high seas in the SPTT Area is likely to be limited by the terms of arrangements under the SPTT. Fishing effort elsewhere in the Convention Area (*e.g.*, in the U.S. EEZ and on the high seas outside the Treaty Area) will be constrained by any limits established by NMFS to implement the provisions of CMM 2015–01. NMFS has not yet established or proposed any such limits for 2016 or 2017, and cannot speculate what limits it might propose, but a point of reference are the limits that were in place in 2009–2015. Those limits applied to the Effort Limit Area for Purse Seine, or ELAPS, which consists of all areas of high seas and U.S. exclusive economic zone in the Convention Area between the latitudes of 20 °N. and 20 °S. The limits in 2009–2013 were 2,588 fishing days per year. The limits in 2014–2015 were 1,828 fishing days per year. With respect to numbers of vessels and allowable fishing effort limits under the SPTT, 2016 is an unusual year in that SPTT licenses for 2016 were not issued until March, and the number of licensed vessels (34 as of May 2016) is fewer than in recent years. Thus, there has been relatively little purse seine fishing effort to date in the Convention Area in 2016, and NMFS expects that total fishing effort in 2016 is likely to be less than 6,502 sets (the estimated breakeven point between the two options). For reference, the average number of sets made annually in 2010–2013, when an average of 38 vessels were active in the fishery, was 7,835. The average number of fishing days made annually in 2010–2013 was 8,030, so the average number of sets made per fishing day was 0.97. Predicting the situation for 2017 is even more difficult than for 2016, but current circumstances suggest that participation in 2017 could be less than in recent years. Also, because setting on FADs on the high seas will be prohibited in 2017 under this rule, the estimated breakeven point of 6,502 total sets applies not everywhere in the Convention Area, but only those portions that are not high seas. Assuming that about 10 percent of fishing effort takes place on the high seas, as in 2010–2013, the breakeven point for the Convention Area as a whole is about 7,224 total sets. Assuming 0.97 sets per fishing day, on average, as occurred in 2010–2013, this equates roughly to 7,371 fishing days. This is slightly less than the average annual fishing effort in 2010–2013 (7,835 sets; 8,030 fishing days), but again, given current circumstances and uncertainty surrounding the future of the SPTT, NMFS expects that total fishing effort in 2017 is likely to be less than that breakeven level. Based on the above expectations and assumptions for conditions in 2016 and 2017, a FAD prohibition period in October is likely to have greater adverse impacts on fishing businesses than an annual limit of 2,522 FAD sets, in both 2016 and 2017. After considering the objectives of CMM 2015–01, the expected economic impacts of both alternatives on U.S. fishing operations and the nation as a whole, and expected environmental and other effects, NMFS expects that for both 2016 and 2017, a limit of 2,522 FAD sets is likely to be somewhat more cost-effective than a FAD prohibition period in October. For this reason, NMFS has rejected the latter alternative.

3. Longline Bigeye Tuna Catch Limits

NMFS has not identified any significant alternatives to this element of the rule, other than the no-action alternative.

Small Entity Compliance Guide

Section 212 of the Small Business Regulatory Enforcement Fairness Act of 1996 states that, for each rule or group of related rules for which an agency is required to prepare a FRFA, the agency shall publish one or more guides to assist small entities in complying with the rule, and shall designate such publications as "small entity compliance guides." The agency shall explain the actions a small entity is required to take to comply with a rule or group of rules. NMFS has prepared small entity compliance guides for this rule, and will send the appropriate guide(s) to holders of permits in the relevant fisheries. The guides and this final rule also will be available at *www.fpir.noaa.gov* and by request from NMFS PIRO (see **ADDRESSES**).

List of Subjects in 50 CFR Part 300

Administrative practice and procedure, Fish, Fisheries, Fishing, Marine resources, Reporting and recordkeeping requirements, Treaties.

Dated: June 17, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 300 is amended as follows:

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart O—Western and Central Pacific Fisheries for Highly Migratory Species

■ 1. The authority citation for 50 CFR part 300, subpart O, continues to read as follows:

Authority: 16 U.S.C. 6901 *et seq.*

■ 2. In § 300.222, add paragraph (ww) to read as follows:

§ 300.222 Prohibitions.

* * * * *

(ww) Fail to carry an observer as required in § 300.223(e).

■ 3. In § 300.223:

■ a. Revise paragraph (b)(1) introductory text and paragraphs (b)(2)(i) and (ii); and

■ b. Add paragraphs (b)(2)(iii) and (iv), and paragraph (e) to read as follows:

§ 300.223 Purse seine fishing restrictions.

* * * * *

(b) * * *

(1) During the periods and in the areas specified in paragraph (b)(2) of this section, owners, operators, and crew of fishing vessels of the United States shall not do any of the activities described below in the Convention Area in the area between 20° N. latitude and 20° S. latitude:

* * * * *

(2) * * *

(i) From July 1 through September 30, 2016;

(ii) From July 1 through September 30, 2017;

(iii) During any period specified in a **Federal Register** notice issued by NMFS announcing that NMFS has determined that U.S. purse seine vessels have collectively made, or are projected to make, 2,522 sets on FADs in the

Convention Area in the area between 20° N. latitude and 20° S. latitude in 2016 or 2017. The **Federal Register** notice will be published at least seven days in advance of the start of the period announced in the notice. NMFS will estimate and project the number of FAD sets using vessel logbooks, and/or other information sources that it deems most appropriate and reliable for the purposes of this section; and

(iv) In any area of high seas, from January 1 through December 31, 2017.

* * * * *

(e) *Observer coverage.* (1) A fishing vessel of the United States may not be used to fish with purse seine gear in the Convention Area without a WCPFC observer on board. This requirement does not apply to fishing trips that meet either of the following conditions:

(i) The portion of the fishing trip within the Convention Area takes place entirely within areas under the jurisdiction of a single nation other than the United States; or,

(ii) No fishing takes place during the fishing trip in the Convention Area in the area between 20 °N. latitude and 20 °S. latitude.

(2) Owners, operators, and crew of fishing vessels subject to paragraph (e)(1) of this section must accommodate WCPFC observers in accordance with the provisions of § 300.215(c).

(3) Meeting either of the conditions in paragraphs (e)(1)(i) and (ii) of this section does not exempt a fishing vessel from having to carry and accommodate a WCPFC observer pursuant to § 300.215 or other applicable regulations.

■ 4. In § 300.224, revise paragraph (a) to read as follows:

§ 300.224 Longline fishing restrictions.

(a) *Establishment of bigeye tuna catch limits.* (1) During calendar year 2016 there is a limit of 3,554 metric tons of bigeye tuna that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States.

(2) During calendar year 2017 there is a limit of 3,345 metric tons of bigeye tuna that may be captured in the Convention Area by longline gear and retained on board by fishing vessels of the United States.

* * * * *

[FR Doc. 2016–14967 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 160411325–6535–02]

RIN 0648–XE568

Fisheries Off West Coast States; Coastal Pelagic Species Fisheries; Annual Specifications

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement annual management measures and harvest specifications to establish the allowable catch levels (*i.e.,* annual catch limit (ACL)/harvest guideline (HG)) for the northern subpopulation of Pacific sardine (hereafter, simply Pacific sardine), in the U.S. Exclusive Economic Zone (EEZ) off the Pacific coast for the fishing season of July 1, 2016, through June 30, 2017. These specifications were determined according to the Coastal Pelagic Species (CPS) Fishery Management Plan (FMP). This action includes a prohibition on directed non-tribal Pacific sardine commercial fishing for Pacific sardine off the coasts of Washington, Oregon and California, which is required because the estimated 2016 biomass of Pacific sardine is below the biomass threshold specified in the HG control rule. Under this action, Pacific sardine may still be harvested as part of either the live bait or tribal fishery or as incidental catch in other fisheries; the incidental harvest of Pacific sardine would initially be limited to 40-percent by weight of all fish per trip when caught with other CPS or up to 2 metric tons (mt) when caught with non-CPS. The annual catch limit (ACL) for the 2016–2017 Pacific sardine fishing year is 8,000 mt. This rule is intended to conserve and manage the Pacific sardine stock off the U.S. West Coast.

DATES: Effective July 1, 2016, through June 30, 2017.

FOR FURTHER INFORMATION CONTACT: Joshua Lindsay, West Coast Region, NMFS, (562) 980–4034, *joshua.lindsay@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS manages the Pacific sardine fishery in the U.S. EEZ off the Pacific coast (California, Oregon, and Washington) in accordance with the CPS FMP. Annual specifications published in the **Federal Register** establish the allowable harvest levels (*i.e.,* overfishing limit (OFL)/ACL/HG) for each Pacific sardine fishing year. The purpose of this final rule is to implement these annual catch reference points for the 2016–2017 fishing year. This final rule adopts, without changes, the catch levels and restrictions that NMFS proposed in the rule published on May 26, 2016 (81 FR 33454), including an OFL and an ABC that takes into consideration uncertainty surrounding the current estimate of biomass for Pacific sardine in the U.S. EEZ off the Pacific coast.

The FMP and its implementing regulations require NMFS to set these annual catch levels for the Pacific sardine fishery based on the annual specification framework and control rules in the FMP. These control rules include the HG control rule, which, in conjunction with the OFL and ABC rules in the FMP, are used to manage harvest levels for Pacific sardine, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* According to the FMP, the quota for the principal commercial fishery is determined using the FMP-specified HG formula. The HG formula in the CPS FMP is HG = [(Biomass − CUTOFF) * FRACTION * DISTRIBUTION] with the parameters described as follows:

1. *Biomass.* The estimated stock biomass of Pacific sardine age one and above. For the 2016–2017 management season this is 106,137 mt.
2. *CUTOFF.* This is the biomass level below which no HG is set. The FMP established this level at 150,000 mt.
3. *DISTRIBUTION.* The average portion of the Pacific sardine biomass estimated in the EEZ off the Pacific coast. The FMP established this at 87 percent.
4. *FRACTION.* The temperature-varying harvest fraction is the percentage of the biomass above 150,000 mt that may be harvested.

As described above, the Pacific sardine HG control rule, the primary mechanism for setting the annual directed commercial fishery quota, includes a CUTOFF parameter which has been set as a biomass level of 150,000 mt. This amount is subtracted from the annual biomass estimate before calculating the applicable HG for the fishing year. Therefore, because this year's biomass estimate is below that value, the formula results in an HG of zero and therefore no Pacific sardine are available for the commercial directed fishery during the 2016–2017 fishing season.

At the April 2016 Council meeting, the Council's SSC approved, and the Council adopted, the "Assessment of the Pacific Sardine Resource in 2016 for U.S.A. Management in 2016–2017", completed by NMFS Southwest Fisheries Science Center and the resulting Pacific sardine biomass estimate of 106,137 mt as the best available science for setting harvest specifications. Based on recommendations from its SSC and other advisory bodies, the Council recommended, and NMFS is implementing, an OFL of 23,085 mt, an ABC of 19,236 mt, and a prohibition on sardine catch unless it is harvested as part of either the live bait or tribal fishery or incidental to other fisheries for the 2016–2017 Pacific sardine fishing year. As additional management measures, the Council also recommended, and NMFS is implementing, an ACL of 8,000 mt and specifying that the incidental catch of Pacific sardine in other CPS fisheries be managed with the following automatic inseason actions to reduce the potential for both targeting and discard of Pacific sardine:

- An incidental allowance of 40 percent Pacific sardine per landing by weight in non-treaty CPS fisheries until a total of 2,000 mt of Pacific sardine are landed.
- When 2,000 mt are landed, the incidental per-landing allowance would be reduced to 30 percent until a total of 5,000 mt of Pacific sardine have been landed.
- When 5,000 mt have been landed, the incidental per-landing allowance would be reduced to 10 percent for the remainder of the 2016–2017 fishing year.

Because Pacific sardine is known to comingle with other CPS stocks, these incidental allowances allow for the continued prosecution of these other important CPS fisheries and reduce the potential discard of sardine. Additionally, non-CPS fisheries are allowed to retain up to 2 mt per landing of sardine harvested incidentally.

The NMFS West Coast Regional Administrator will publish a notice in the **Federal Register** announcing the date of attainment of any of the incidental catch levels described above and subsequent changes to allowable incidental catch percentages. Additionally, to ensure that the regulated community is informed of any closure, NMFS will also make announcements through other means available, including fax, email, and mail to fishermen, processors, and state fishery management agencies.

As explained in the proposed rule, 800 mt of the ACL are being set aside for tribal harvest use per a request from the Quinault Indian Nation.

Detailed information on the fishery and the stock assessment are found in the report "Assessment of the Pacific Sardine Resource in 2016 for U.S.A. Management in 2016–2017" (see **FOR FURTHER INFORMATION CONTACT**).

Comment and Response

On May 26, 2016, NMFS published a proposed rule for this action and solicited public comments (81 FR 33454), with a public comment period that ended on June 10, 2016. NMFS received one comment letter—explained below—during the comment period. After consideration of the public comment, no changes were made from the proposed rule. For further background information on this action please refer to the preamble of the proposed rule. NMFS summarizes and responds below to the comment letter below.

Comment: The commenter expressed support for the prohibition on directed commercial sardine fishing, but is opposed to the proposed ACL level, and requested that NMFS instead set an ACL of no more than 1,000 mt to be divided among the live bait and tribal sectors, and to accommodate limited bycatch. The commenter expressed an opinion that the proposed ACL of 8,000 mt fails to follow the harvest control rule because the FMP states that the harvest rate should be zero when the biomass drops below the CUTOFF.

The comment also requested reconsideration of the sardine harvest control rule and other aspects of sardine management, including but not limited to the existing CUTOFF and Minimum Stock Size Threshold values. (These parameters, as well as other changes to the sardine harvest control rule and management mentioned by the commenter are beyond the scope of this rulemaking and will not be addressed below.)

Response: First, NMFS notes that the stock assessment for the 2016–2017 fishing year, as with each annual stock assessment, went through a multi-stage review process including being reviewed and discussed by the Council, and the Council's SSC, CPS management team, and CPS advisory subpanel to ensure that the best available science is utilized when calculating the biomass estimate. This year's biomass estimate used for the 2016–2017 specifications, along with the resulting OFL and ABC, was endorsed by the Council's SSC and NMFS as the best available science. Although this biomass estimate is still below the CUTOFF value, triggering the second year of the closure of the primary directed fishery, the estimate is slightly higher than last year's estimate.

NMFS disagrees that the ACL implemented in this rule is not in line with the FMP or that it fails to prevent overfishing or will "contribute to the continued decline of the sardine population to an overfished condition". The ACL should be viewed in the context of the OFL for the northern subpopulation of Pacific Sardine of 23,085 mt and an ABC of 19,236 mt that takes into account scientific uncertainty surrounding the OFL. These reference limits were recommended by the Council based on the control rules in the FMP and were endorsed the Council's SSC. The commenter does not note disagreement with these levels. By definition, fishing could conceivably occur up to these levels and overfishing would not be occurring and therefore fishing would not be the cause of the stock moving towards an overfished state. An ACL of 8,000 mt is well below both the OFL and ABC, under which incidental catch of sardine will be managed, along with the multiple safeguards in place to keep the catch under that level, the management measures implemented by this rule are more than adequate to prevent exceeding the OFL.

In response to the commenter's opinion that overall harvest rate should be zero when the biomass drops below the 150,000 mt CUTOFF, NMFS notes that the FMP does not forbid incidental, live bait or tribal harvest in this situation. The reference provided by the commenter to of a harvest rate of zero is specific to the primary directed fishery; as explained above, this action sets the directed harvest rate at zero. Although the commenter states that the harvest rate in this situation should be zero, the commenter nevertheless also seems to agree that the FMP allows incidental, live bait, or tribal harvest if the directed harvest is set at zero. The commenter specifically cites the CPS FMP language that allows for live bait harvest when the estimated biomass drops below the CUTOFF. Additionally, although the commenter disagrees with setting the ACL at 8,000 mt because it would allow a harvest rate above zero percent (which the commenter argues would violate the FMP), the commenter supports an ACL of 1,000 mt (implying that the commenter recognizes that the FMP allows a harvest rate above zero percent).

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Fishery Conservation and Management Act, the NMFS Assistant Administrator has determined that this final rule is consistent with the CPS FMP, other provisions of the Magnuson-Stevens Fishery Conservation and Management Act, and other applicable law.

NMFS finds good cause under 5 U.S.C. 553(d)(3) to waive the 30-day delay in effectiveness for the establishment of these final harvest specifications for the 2016–2017 Pacific sardine fishing season. In accordance with the FMP, this rule was recommended by the Council at its meeting in April 2016, the contents of which were based on the best available new information on the population status of Pacific sardine that became available at that time. Making these final specifications effective on July 1 is necessary for the conservation and management of the Pacific sardine resource. The FMP requires a prohibition on directed fishing for Pacific sardine for the 2016–2017 fishing year because the sardine biomass is below the CUTOFF. The purpose of the CUTOFF in the FMP—and prohibiting directed fishing when the biomass drops below this level—is to protect the stock when biomass is low and provide a buffer of spawning stock that is protected from fishing and available for use in rebuilding the stock. A delay in the effectiveness of this rule for a full 30 days would not allow the implementation of this prohibition prior to the expiration of the closure of the directed fishery on July 1, 2016, which was imposed under the 2015–2016 annual specifications.

Delaying the effective date of this rule beyond July 1 would be contrary to the public interest because reducing Pacific sardine biomass beyond the limits set out in this action could decrease the sustainability of the Pacific sardine, as well as cause future harvest limits to be even lower under the harvest control rule, thereby reducing future profits of the fishery.

These final specifications are exempt from review under Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis was not required and none was prepared.

This action does not contain a collection-of-information requirement for purposes of the Paper Reduction Act.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 17, 2016.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2016–14955 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150916863–6211–02]

RIN 0648–XE694

Fisheries of the Exclusive Economic Zone Off Alaska; Exchange of Flatfish in the Bering Sea and Aleutian Islands Management Area

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is exchanging unused flathead sole and yellowfin sole Community Development Quota (CDQ) for rock sole CDQ acceptable biological catch (ABC) reserves in the Bering Sea and Aleutian Islands management area. This action is necessary to allow the 2016 total allowable catch of rock sole in the Bering Sea and Aleutian Islands management area to be harvested.

DATES: Effective June 24, 2016 through December 31, 2016.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the Bering Sea and Aleutian Islands management area (BSAI) according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2016 flathead sole, rock sole, and yellowfin sole CDQ reserves specified in the BSAI are 2,247 mt, 5,710 mt, and 15,808 mt as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016), and one flatfish exchange (81 FR 21482, April 12, 2016). The 2016 flathead sole, rock sole, and yellowfin sole CDQ ABC reserves are 4,842 mt, 11,528 mt, and 6,844 mt as established by the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016), and one flatfish exchange (81 FR 21482, April 12, 2016).

The Yukon Delta Fisheries Development Association has requested that NMFS exchange 15 mt of flathead sole and 35 mt of yellowfin sole CDQ reserves for 50 mt of rock sole CDQ ABC reserve under § 679.31(d). Therefore, in accordance with § 679.31(d), NMFS exchanges 15 mt of flathead sole and 35 mt of yellowfin sole CDQ reserves for 50 mt of rock sole CDQ ABC reserves in the BSAI. This action also decreases and increases the associated total annual catches (TAC) and CDQ ABC reserves by the corresponding amounts. Tables 11 and 13 of the final 2016 and 2017 harvest specifications for groundfish in the BSAI (81 FR 14773, March 18, 2016), as revised by one flatfish exchange (81 FR 21842, April 12, 2016), are revised as follows:

TABLE 11—FINAL 2016 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAs), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACs

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
TAC	7,900	7,000	9,000	20,985	56,750	144,365

TABLE 11—FINAL 2016 COMMUNITY DEVELOPMENT QUOTA (CDQ) RESERVES, INCIDENTAL CATCH AMOUNTS (ICAS), AND AMENDMENT 80 ALLOCATIONS OF THE ALEUTIAN ISLANDS PACIFIC OCEAN PERCH, AND BSAI FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE TACS—Continued

[Amounts are in metric tons]

Sector	Pacific ocean perch			Flathead sole	Rock sole	Yellowfin sole
	Eastern Aleutian district	Central Aleutian district	Western Aleutian district	BSAI	BSAI	BSAI
CDQ	845	749	963	2,232	5,760	15,773
ICA	200	75	10	5,000	6,000	3,500
BSAI trawl limited access	685	618	161	0	0	14,979
Amendment 80	6,169	5,558	7,866	13,753	44,990	110,113
Alaska Groundfish Cooperative	3,271	2,947	4,171	1,411	11,129	43,748
Alaska Seafood Cooperative	2,898	2,611	3,695	12,342	33,861	66,365

Note: Sector apportionments may not total precisely due to rounding.

TABLE 13—FINAL 2016 AND 2017 ABC SURPLUS, COMMUNITY DEVELOPMENT QUOTA (CDQ) ABC RESERVES, AND AMENDMENT 80 ABC RESERVES IN THE BSAI FOR FLATHEAD SOLE, ROCK SOLE, AND YELLOWFIN SOLE

[Amounts are in metric tons]

Sector	2016 Flathead sole	2016 Rock sole	2016 Yellowfin sole	2017 Flathead sole	2017 Rock sole	2017 Yellowfin sole
ABC	66,250	161,100	211,700	64,580	145,000	203,500
TAC	20,985	56,750	144,365	21,000	57,100	144,000
ABC surplus	45,265	104,350	67,335	43,580	87,900	59,500
ABC reserve	45,265	104,350	67,335	43,580	87,900	59,500
CDQ ABC reserve	4,857	11,478	6,879	4,663	9,405	6,367
Amendment 80 ABC reserve	40,408	92,872	60,456	38,917	78,495	53,134
Alaska Groundfish Cooperative for 2016[1]	4,145	22,974	24,019	n/a	n/a	n/a
Alaska Seafood Cooperative for 2016[1]	36,263	69,898	36,437	n/a	n/a	n/a

[1] The 2017 allocations for Amendment 80 species between Amendment 80 cooperatives and the Amendment 80 limited access sector will not be known until eligible participants apply for participation in the program by November 1, 2016.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the flatfish exchange by the Yukon Delta Fisheries Development Association in the BSAI. Since these fisheries are currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 20, 2016.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 21, 2016.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2016–15001 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 81, No. 122
Friday, June 24, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AN38

Prevailing Rate Systems; Redefinition of Certain Appropriated Fund Federal Wage System Wage Areas

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management (OPM) is issuing a proposed rule that would redefine the geographic boundaries of several appropriated fund Federal Wage System (FWS) wage areas for pay-setting purposes. Based on recent reviews of Metropolitan Statistical Area (MSA) boundaries in a number of wage areas, OPM proposes redefinitions affecting the following wage areas: Salinas-Monterey, CA; San Francisco, CA; New London, CT; Central and Western Massachusetts; Cincinnati, OH: Dayton, OH, Southeastern Washington-Eastern Oregon; and Spokane, WA.

DATES: We must receive comments on or before July 25, 2016.

ADDRESSES: You may submit comments, identified by "RIN 3206–AN38," using any of the following methods:

Federal eRulemaking Portal: http://www.regulations.gov. Follow the instructions for submitting comments.

Mail: Brenda L. Roberts, Deputy Associate Director for Pay and Leave, Employee Services, U.S. Office of Personnel Management, Room 7H31, 1900 E Street NW., Washington, DC 20415–8200.

Email: pay-leave-policy@opm.gov.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, by telephone at (202) 606–2838 or by email at *pay-leave-policy@opm.gov.*

SUPPLEMENTARY INFORMATION: OPM is issuing a proposed rule to redefine the geographic boundaries of several appropriated fund FWS wage areas. These changes are based on recommendations of the Federal Prevailing Rate Advisory Committee (FPRAC), the statutory national labor-management committee responsible for advising OPM on matters affecting the pay of FWS employees. From time to time, FPRAC reviews the boundaries of wage areas and provides OPM with recommendations for changes if the Committee finds that changes are warranted.

OPM considers the following regulatory criteria under 5 CFR 532.211 when defining FWS wage area boundaries:

(i) Distance, transportation facilities, and geographic features;

(ii) Commuting patterns; and

(iii) Similarities in overall population, employment, and the kinds and sizes of private industrial establishments.

In addition, OPM regulations at 5 CFR 532.211 do not permit splitting MSAs for the purpose of defining a wage area, except in very unusual circumstances.

The U.S. Office of Management and Budget defines MSAs and maintains and updates the definitions of MSA boundaries following each decennial census. MSAs are composed of counties and are defined on the basis of a central urbanized area—a contiguous area of relatively high population density. Additional surrounding counties are included in MSAs if they have strong social and economic ties to central counties.

When the boundaries of wage areas were first established in the 1960s, there were fewer MSAs than there are today and the boundaries of the then existing MSAs were much smaller. Most MSAs were contained within the boundaries of a wage area. MSAs have expanded each decade and in some cases now extend beyond the boundaries of the wage area.

FPRAC recently reviewed several wage areas where boundaries subdivide certain MSAs and has recommended by consensus that OPM implement the changes described in this proposed rule. These changes would be effective on the first day of the first applicable pay period beginning on or after 30 days following publication of the final regulations.

San Jose-Sunnyvale-Santa Clara, CA MSA

San Benito and Santa Clara Counties, CA, comprise the San Jose-Sunnyvale-Santa Clara, CA MSA. The San Jose-Sunnyvale-Santa Clara MSA is split between the Salinas-Monterey, CA, wage area and the San Francisco, CA, wage area. San Benito County is part of the Salinas-Monterey area of application while Santa Clara County is part of the San Francisco survey area.

OPM proposes to redefine San Benito County to the San Francisco area of application so that the entire San Jose-Sunnyvale-Santa Clara, CA MSA is in one wage area. There are currently 15 FWS employees stationed in San Benito County.

Worcester, MA-CT MSA

Windham County, CT, and Worcester County, MA, comprise the Worcester, MA-CT MSA. The Worcester MSA is split between the New London, CT, wage area and the Central and Western Massachusetts, MA, wage area. Windham County is part of the New London area of application and Worcester County is part of the Central and Western Massachusetts area of application, except that the towns of Warren and West Warren in Worcester County are part of the Central and Western Massachusetts survey area and the towns of Blackstone and Millville in Worcester County are part of the Narragansett Bay, RI, survey area.

OPM proposes to redefine Windham County to the Central and Western Massachusetts area of application so that the entire Worcester, MA-CT MSA is in one wage area. There are currently no FWS employees stationed in Windham County.

Cincinnati, OH-KY-IN MSA

Dearborn, Ohio, and Union Counties, IN; Boone, Bracken, Campbell, Gallatin, Grant, Kenton, and Pendleton Counties, KY; and Brown, Butler, Clermont, Hamilton, and Warren Counties, OH, comprise the Cincinnati, OH-KY-IN MSA. The Cincinnati MSA is split between the Cincinnati, OH, wage area and the Dayton, OH, wage area. Dearborn County, IN; Boone, Campbell, and Kenton Counties, KY; and Clermont, Hamilton, and Warren Counties, OH, are part of the Cincinnati survey area. Ohio County, IN; Bracken, Gallatin, Grant, and Pendleton Counties, KY; and Brown and Butler Counties, OH, are part of the Cincinnati area of application. Union County is part of the Dayton area of application.

OPM proposes to redefine Union County to the Cincinnati area of application so that the entire Cincinnati, OH-KY-IN MSA is in one wage area. There are currently no FWS employees stationed in Union County.

Walla Walla, WA MSA

Columbia and Walla Walla Counties, WA, comprise the Walla Walla, WA MSA. The Walla Walla MSA is split between the Southeastern Washington-Eastern Oregon wage area and the Spokane, WA, wage area. Walla Walla County is part of the Southeastern Washington-Eastern Oregon survey area and Columbia County is part of the Spokane area of application.

OPM proposes to redefine Columbia County to the Southeastern Washington-Eastern Oregon area of application so that the entire Walla Walla, WA MSA is in one wage area. There are currently three FWS employees stationed in Columbia County.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Beth F. Cobert,

Acting Director.

Accordingly, OPM is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

■ 1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

Appendix C to Subpart B of Part 532—Appropriated Fund Wage and Survey Areas

■ 2. Appendix C to subpart B is amended by revising the wage area listings for the Salinas-Monterey, CA; San Francisco, CA; New London, CT; Central and Western Massachusetts; Cincinnati, OH: Dayton, OH, Southeastern Washington-Eastern Oregon; and Spokane, WA, wage areas to read as follows:

* * * * *

CALIFORNIA

* * * * *

Salinas-Monterey

Survey Area

California:
  Monterey

Area of Application. Survey area.

* * * * *

San Francisco

California:
  Alameda
  Contra Costa
  Marin
  Napa
  San Francisco
  San Mateo
  Santa Clara
  Solano

Area of Application. Survey area plus:

California:
  Mendocino
  San Benito
  Santa Cruz
  Sonoma

* * * * *

CONNECTICUT

* * * * *

New London

Survey Area

Connecticut:
  New London

Area of Application. Survey area.

* * * * *

MASSACHUSETTS

* * * * *

Central and Western Massachusetts

Survey Area

Massachusetts
The following cities and towns in:
  Hampden County
  Agawam
  Chicopee
  East Longmeadow
  Feeding Hills
  Hampden
  Holyoke
  Longmeadow
  Ludlow
  Monson
  Palmer
  Southwick
  Springfield
  Three Rivers
  Westfield
  West Springfield
  Wilbraham
  Hampshire County
  Easthampton
  Granby
  Hadley
  Northampton
  South Hadley
  Worcester County
  Warren
  West Warren

Area of Application. Survey area plus:

Connecticut:
  Windham
Massachusetts:
  Berkshire
  Franklin
  Worcester (except Blackstone and Millville)
The following cities and towns in:
  Hampden County
  Blandford
  Brimfield
  Chester
  Granville
  Holland
  Montgomery
  Russell
  Tolland
  Wales
  Hampshire County
  Amherst
  Belchertown
  Chesterfield
  Cummington
  Goshen
  Hatfield
  Huntington
  Middlefield
  Pelham
  Plainfield
  Southampton
  Ware
  Westhampton
  Williamsburg
  Worthington
  Middlesex County
  Ashby
  Shirley
  Townsend
New Hampshire:
  Belknap
  Carroll
  Cheshire
  Grafton
  Hillsborough
  Merrimack
  Sullivan
Vermont:
  Addison
  Bennington
  Caledonia
  Essex
  Lamoille
  Orange
  Orleans
  Rutland
  Washington
  Windham
  Windsor

* * * * *

OHIO

Cincinnati

Survey Area

Indiana:
  Dearborn
Kentucky:
  Boone
  Campbell
  Kenton
Ohio:
  Clermont
  Hamilton
  Warren

Area of Application. Survey area plus:

Indiana:
  Franklin
  Ohio
  Ripley

- Switzerland
- Union

Kentucky:
- Bracken
- Carroll
- Gallatin
- Grant
- Mason
- Pendleton

Ohio:
- Adams
- Brown
- Butler
- Highland

* * * * *

Dayton

Ohio:
- Champaign
- Clark
- Greene
- Miami
- Montgomery
- Preble

Area of Application. Survey area plus:

Indiana:
- Randolph
- Wayne

Ohio:
- Auglaize
- Clinton
- Darke
- Logan
- Shelby

* * * * *

WASHINGTON

* * * * *

Southeastern Washington-Eastern Oregon
Survey Area

Oregon:
- Umatilla

Washington:
- Benton
- Franklin
- Walla Walla
- Yakima

Area of Application. Survey area plus:

Oregon:
- Baker
- Grant
- Harney
- Malheur
- Morrow
- Union
- Wallowa
- Wheeler

Washington:
- Columbia
- Kittitas (Only includes the Yakima Firing Range portion)

Spokane
Survey Area

Washington:
- Spokane

Area of Application. Survey area plus:

Idaho:
- Benewah
- Bonner
- Boundary
- Clearwater
- Idaho
- Kootenai
- Latah
- Lewis
- Nez Perce
- Shoshone

Washington:
- Adams
- Asotin
- Chelan (Does not include the North Cascades National Park portion)
- Douglas
- Ferry
- Garfield
- Grant
- Kittitas (Does not include the Yakima Firing Range portion)
- Lincoln
- Okanogan
- Pend Oreille
- Stevens
- Whitman

* * * * *

[FR Doc. 2016–14912 Filed 6–23–16; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 2 and 3

[Docket No. APHIS–2012–0107]

Petition To Amend Animal Welfare Act Regulations To Prohibit Public Contact With Big Cats, Bears, and Nonhuman Primates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice; reopening of comment period.

SUMMARY: We are reopening the comment period for a petition requesting amendments to the Animal Welfare Act regulations and standards pertaining to physical contact with dangerous animals. We are especially interested in receiving public comments on the additional questions included in this notice. We are providing information about upcoming virtual stakeholder listening sessions and other efforts intended to gather additional public comment. This action will allow interested persons additional time to prepare and submit comments and further inform our thinking on the handling of dangerous animals.

DATES: The comment period for the notice published on August 5, 2013 (78 FR 47215) and reopened on October 24, 2013 (78 FR 63408) is reopened. We will consider all comments that we receive on or before August 31, 2016. The virtual listening sessions described in this notice will be held on Wednesday, June 29, 2016, from 1 p.m. to 3 p.m. eastern time (ET); Wednesday, July 6, 2016, from 1 p.m. to 3 p.m. ET; and Thursday, August 4, 2016, from 1 p.m. to 3 p.m. ET. Registration is required to participate in the listening sessions. Links for registering to participate in the virtual listening sessions are included in the Web site in footnote 2 below.

ADDRESSES: You may submit comments by either of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0107.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2012–0107, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0107* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Barbara Kohn, Senior Staff Veterinarian, Animal Care, APHIS, 4700 River Road Unit 84, Riverdale, MD 20737–1234; (301) 851–3751.

SUPPLEMENTARY INFORMATION:

On August 5, 2013, we published in the **Federal Register** (78 FR 47215–47217, Docket No. APHIS–2012–0107) a notice[1] making available for comment a petition requesting amendments to the Animal Welfare Act (AWA) regulations and standards, including amendments to prohibit licensees from allowing individuals, with certain exceptions, from coming into direct or physical contact with big cats, bears, or nonhuman primates of any age, to define the term "sufficient distance," and to prohibit the public handling of young or immature big cats, bears, and nonhuman primates.

Comments were required to be received on or before October 4, 2013. In a subsequent notice published October 24, 2013 (78 FR 63408), we reopened the comment period for an additional 45 days to November 18, 2013. We received 15,379 comments.

We are again reopening the comment period and will accept all comments we receive on or before August 31, 2016.

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[1] To view the notice, petition, and the comments we received, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2012-0107.*

We are especially interested in receiving public comments on the questions presented below. Responses to these questions will help further inform our thinking on the handling of dangerous animals:

1. What factors and characteristics should determine if a type of animal is suitable for public contact? When the Animal and Plant Health Inspection Service (APHIS) describes an animal as dangerous, there are certain characteristics we use to classify the animals, such as the size, strength, and instinctual behavior of an animal, risk of disease transmission between animals and humans (*i.e.*, zoonoses such as Herpes B), and ability to safely and humanely handle (or control) the animal in all situations.

2. What animals should APHIS consider including under the definition of dangerous animals? For example, are all nonhuman primates dangerous? We currently identify some animals as dangerous, including, but not limited to, nondomestic felids (such as lions, tigers, jaguars, mountain lions, cheetahs, and any hybrids thereof), wolves, bears, certain nonhuman primates (such as gorillas, chimps, and macaques), elephants, hippopotamuses, rhinoceroses, moose, bison, camels, and common animals known to carry rabies.

3. What animals may pose a public health risk and why? What risks does public contact with dangerous animals present to the individual animal and the species and why?

4. What are the best methods of permanent, usable animal identification for dangerous animals?

5. What are the most humane training techniques to use with dangerous animals?

6. What scientific information (peer-reviewed journals preferred) is available that identifies the appropriate weaning ages for nondomestic felids, bears, elephants, wolves, nonhuman primates, and other dangerous animals?

7. What industry, organizational, or governmental standards have been published for the handling and care of dangerous animals?

8. What constitutes sufficient barriers for enclosures around dangerous animals to keep members of the public away from the animals? What methods (structures, distance, attendants, etc.) are needed to prevent entry of the public into an enclosure and keep the animal safe while still allowing for meaningful viewing?

In addition to inviting the public to comment on these questions, we are making available for the public a Web site[2] containing background information on the topics explained in this notice. We also plan to convene three virtual listening sessions during the summer, allowing stakeholders to participate regardless of their location before the close of the public comment period. The dates of each virtual listening session are as follows:

- June 29, 2016, 1 p.m. to 3 p.m. eastern time (ET);
- July 6, 2016, 1 p.m. to 3 p.m. ET; and
- August 4, 2016, 1 p.m. to 3 p.m. ET.

Persons wishing to participate in the virtual listening sessions are required to register prior to the session. Links for registering to participate in each listening session are included in the Web site in footnote 2. Upon registration, participants will be provided with a call-in number and access code. The virtual listening sessions will provide the public with opportunities to share their views on the handling of dangerous animals and provide us with additional material to inform our thinking on this topic.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.7.

Done in Washington, DC, this 21st day of June 2016.

William H. Clay,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2016–14976 Filed 6–23–16; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[Docket No. PRM–72–6; NRC–2008–0649]

Petition for Rulemaking Submitted by C–10 Research and Education Foundation, Inc.

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying Requests 4 and 9 of a petition for rulemaking (PRM), dated November 24, 2008, filed by Ms. Sandra Gavutis, Executive Director of C–10 Research and Education Foundation, Inc. (the petitioner). The petitioner requested that the NRC amend its regulations concerning dry cask safety, security, transferability, and longevity. The petitioner made 12 specific requests. The NRC previously denied 9 of these requests and accepted 1 request for consideration in the rulemaking process. Two remaining requests were reserved for future rulemaking determinations. The purpose of this **Federal Register** notice is to announce the NRC's final decision to deny these two remaining requests.

DATES: The docket for the petition for rulemaking, PRM–72–6, is closed on June 24, 2016.

ADDRESSES: Please refer to Docket ID NRC–2008–0649 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0649. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Torre Taylor, telephone: 301–415–7900, email: *Torre.Taylor@nrc.gov;* or Haile Lindsay, telephone: 301–415–0616, email: *Haile.Lindsay@nrc.gov;* both of the Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), "Petition for rulemaking," provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. The NRC received a PRM, dated November 24, 2008, filed by Ms. Sandra Gavutis, Executive Director of C–10 Research and Education Foundation, Inc. (ADAMS Accession No. ML083470148). The petitioner requested that the NRC amend its regulations concerning dry cask safety, security, transferability, and longevity. The petitioner made 12 specific requests in the petition. The petition was noticed in the **Federal Register** for public comment on March 3, 2009 (74 FR 9178). The NRC received over 9,000 comment letters, including comments from industry, the American Society of Mechanical Engineers (ASME), non-governmental organizations, and members of the public. The overwhelming majority of the comment letters received were identical (form) emails. The Nuclear Energy Institute and the Strategic Team and Resource Sharing organization opposed the petition. All form email comments, ASME, and the Berkeley Fellowship of Unitarian Universalists Social Justice Committee supported the petition. The NRC staff discussed its review of the petition and the comments received in SECY–12–0079, "Partial Closure of Petition for Rulemaking (PRM–72–6) C–10 Research and Education Foundation, Inc.," dated June 1, 2012 (ADAMS Package Accession No. ML12068A090).

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[2] *https://www.aphis.usda.gov/aphis/ourfocus/animalwelfare/Handling-Dangerous-Animals-Feedback-Page.*

The comments were summarized in a **Federal Register** notice, dated October 16, 2012 (77 FR 63254). The NRC denied 9 of the petitioner's 12 requests (Requests 1, 2, 3, 5–8, 10, and 12), accepted one request (Request 11) for consideration as part of the ongoing independent spent fuel storage installation (ISFSI) security rulemaking effort (RIN 3150–A178; Docket ID NRC–2009–0558), and reserved 2 requests for future rulemaking determination (Requests 4 and 9) in that **Federal Register** notice. The two reserved requests, as stated in the petition, are:

(1) Request 4: "To require that dry casks are qualified for transport at the time of onsite storage approval certification. Transport capacity for shipment offsite must be required in the event of a future environmental emergency or for matters of security to an alternative storage location or repository and must be part of the approval criteria. NRC Chapter 1 of the Standard Review Plan (NUREG–1567) should clearly define Part 72.122(i); 72.236(h); and in 72.236(m)."

(2) Request 9: "To require a safe and secure hot cell transfer station coupled with an auxiliary pool to be built as part of an upgraded ISFSI design certification and licensing process. The utility must have dry cask transfer capability for maintenance as well as emergency situations after decommissioning for as long as the spent fuel remains onsite. The NRC has to date not approved a dry cask transfer system."

II. Reasons for Denial

The NRC is denying the petitioner's Requests 4 and 9, because the proposed changes to the NRC requirements are unnecessary to ensure safe and secure storage and transportation of spent fuel. The NRC had reserved a decision on these two requests, because the NRC staff was conducting an ongoing analysis of: (1) Spent fuel storage and transportation compatibility; (2) regulatory changes that might be necessary to continue safe storage of fuel in casks beyond the initial storage period over multiple renewal periods; (3) the behavior of high burnup fuel during extended storage periods; and (4) regulation of stand-alone ISFSIs. This analysis was being done as part of the NRC staff's work related to COMSECY–10–0007, "Project Plan for the Regulatory Program Review to Support Extended Storage and Transportation of Spent Nuclear Fuel" (ADAMS Accession No. ML101390413). Part of this analysis also involved evaluating the licensing programs for spent fuel storage for any improvements. As a consequence of this work, as well as considering information and insight from other sources, the NRC can now resolve the outstanding requests from the petitioner.

Petitioner Request 4

The NRC is denying Request 4 for the following reasons. In reviewing Request 4, the NRC staff interpreted the petition to request that the NRC require that a transportation package certificate of compliance be approved at the same time as the onsite storage approval certification. The NRC's decision to deny Request 4 is based on this understanding of the request. In addition to the ongoing work related to COMSECY–10–0007 discussed above, the following efforts discussed in the project plan in COMSECY–10–0007 also relate specifically to Request 4:

> The staff will evaluate the compatibility of 10 CFR part 71, 'Packaging and Transportation of Radioactive Material,' and 10 CFR part 72, 'Licensing Requirements for the Independent Storage of Spent Nuclear Fuel, High-Level Radioactive Waste, and Reactor-Related Greater than Class C Waste,' requirements to identify (1) areas of overlap where the requirements are substantially similar, (2) areas where the performance requirements are significantly different, (3) specific regulations that must be met for transportation for which there is no similar storage regulation, and (4) recommendations for improving the compatibility and efficiency of the 10 CFR parts 71 and 72 review processes. The staff will also evaluate the different types of currently authorized dry cask storage systems to identify any potential unique compatibility issues. This assessment will also consider potential integration of the storage and transportation safety reviews conducted under 10 CFR parts 71 and 72.

As indicated above, there were four areas in which the staff was evaluating the compatibility of the requirements within 10 CFR part 71 and 10 CFR part 72 related to storage and transportation of spent nuclear fuel. The NRC reserved its decision on Request 4 until the NRC staff had made sufficient progress on the four areas identified above. These efforts have provided the NRC with sufficient information to now make a decision on Request 4.

The NRC staff's consideration of the compatibility of 10 CFR part 71 and 10 CFR part 72, as part of the NRC staff's efforts related to COMSECY–10–0007, has informed recent safety evaluation reviews performed by the NRC staff of storage design certifications, such as new applications and renewals. Since the petition was received in 2008, the NRC staff has completed the review of 12 storage design applications; information on these reviews can be found at *http://www.nrc.gov/waste/spent-fuel-storage/designs.html.* The NRC staff's work on these storage and transportation compatibility considerations may be further documented in future revisions to the Standard Review Plans for Storage—NUREG–1536, Rev. 1, "Standard Review Plan for Dry Cask Storage Systems" (ADAMS Accession No. ML101040620); and NUREG–1567, "Standard Review Plan for Spent Fuel Dry Storage Facilities" (ADAMS Accession No. ML003686776).

The petitioner noted the potential for an environmental emergency or matter of security that would require transport of the spent fuel from storage to an alternate location as a basis for why transportation certification approval should be required at the time of storage certification. By design, dry storage systems are robust, passive systems and, as discussed above, transport is unlikely to be the best course of action in an emergency. These systems have been evaluated for several design basis events, including malicious acts. As the first step in addressing an environmental emergency or matter of security, the staff would not recommend removal of the spent fuel from storage. The storage requirements in 10 CFR part 72, in combination with the packaging and transportation requirements in 10 CFR part 71, are adequate to ensure safety. In the case of an environmental emergency, the best course of action would likely be to secure the area, contain the spent fuel, assess the situation, and to keep the spent fuel in storage until a more thorough evaluation of the situation has been completed. There are interim measures that can be taken to contain the spent fuel and to provide safety, such as restricting access to the area, putting up temporary physical barriers, and using temporary shielding. If it is determined that the spent fuel must be moved, the NRC has several regulatory options to ensure the safe transportation of the spent fuel, including issuing license amendments, issuing immediately effective orders, or evaluating requests for exemptions to the spent fuel transportation regulations in 10 CFR part 71. Under 10 CFR 71.12, "Specific exemptions," the Commission may grant an exemption from the transportation requirements if it determines the exemption is authorized by law and will not endanger life or property or the common defense and security. This allows flexibility for the design and construction of transportation packaging if the controls proposed in the shipping procedures are demonstrated to be adequate to provide an equivalent level of safety of the shipment and its content.

Dry storage system designs have become more standardized and many designs use a welded canister to provide one of the confinement barriers of the spent nuclear fuel. Because the welded canister provides confinement of the spent nuclear fuel, as required under 10 CFR 72.122(h), removal of the fuel during storage should be unnecessary so long as the licensee is complying with the regulations to ensure safety measures are met. Additionally, for packaging and transporting welded canisters containing spent fuel, under 10 CFR part 71, most spent fuel cask vendors have compatible transportation packaging designs either approved or under development. For those limited, older systems that may not have been designed with transportation packaging as a consideration, an exemption can be issued in accordance with 10 CFR 71.12 if the Commission determines that doing so will not endanger life or property or the common defense and security. This allows flexibility for the design and construction of transportation packaging, if the controls proposed in the shipping procedures are demonstrated to be adequate to provide an equivalent level of safety of the shipment and its content.

In association with efforts related to COMSECY–10–0007, the NRC staff conducted a comparison of the requirements for storage systems in 10 CFR part 72 and those for transportation packaging in 10 CFR part 71 to identify any areas of incompatibility. This work began before receipt of the petition. The NRC staff found from this comparison that there are differences between these requirements, such as differences in thermal design criteria, confinement/containment design criteria, criticality design criteria and specific accident conditions design criteria. However, these differences do not preclude the safe packaging and transportation of spent fuel in casks designed for storage. As an example, there is a difference between the temperature criteria for transportation accident conditions and those for storage accident conditions. If it became necessary to remove the spent fuel casks from storage and transport them, in most cases the temperature criteria differences would not preclude the safe transport. Alternatively, an exemption could be issued in accordance with 10 CFR 71.12 if the transportation criteria were not met but the Commission determined that the transportation would not endanger life or property or the common defense and security.

As required by 10 CFR part 72, cask storage systems must be designed to provide for safe and secure storage taking into consideration natural and human-induced events. For a specific license, the design basis events that must be evaluated are provided in: (1) 10 CFR 72.92, "Design basis external natural events," and (2) 10 CFR 72.94, "Design basis external man-induced events." Nuclear power reactor licensees are authorized to store spent fuel under the general license in 10 CFR 72.210, "General license issued." A general licensee must choose a storage cask that has an NRC-issued certificate of compliance. The list of approved storage casks is provided in 10 CFR 72.214, "List of approved spent fuel storage casks." For these storage casks, the vendor has already evaluated the cask design against normal, off-normal, and accident conditions as required by 10 CFR 72.236, "Specific requirements for spent fuel storage cask approval and fabrication." The general licensees must meet the specific requirements found in 10 CFR 72.212, "Conditions of general license issued under 10 CFR 72.210." The regulations in 10 CFR 72.212(b)(6) require the general licensee to review the safety analysis report referenced in the certificate or amended certificate and the related NRC safety evaluation report prior to use of the general license. The licensee must determine whether the reactor site parameters, including analyses of earthquake intensity and tornado missiles, are included within the cask design bases. In addition, the licensee must establish that the stored spent fuel will meet the design requirements for natural and human-induced events: (1) 10 CFR 72.212(b)(5)(ii) for static and dynamic loads and (2) 10 CFR 72.212(b)(9) which requires the general licensee to protect the spent fuel against the design basis threat of radiological sabotage in accordance with the requirements set forth in the licensee's physical security plan under 10 CFR 73.55, "Requirements for physical protection of licensed activities in nuclear power reactors against radiological sabotage." These requirements provide assurance that spent fuel storage casks are sufficiently robust to withstand environmental and security events included within the design bases.

The safety of spent fuel storage has been demonstrated by operating experience. Subsequent to the NRC's earlier review of this petition, an earthquake occurred in the vicinity of the North Anna Nuclear Power Plant in Virginia. This earthquake was beyond the design basis event for which the spent fuel storage designs were evaluated. After the earthquake, North Anna Nuclear Power Plant personnel and representatives from the spent fuel storage system manufacturer conducted detailed inspections and monitoring. The NRC staff also conducted several inspections through an Augmented Inspection Team (ADAMS Accession No. ML113040031) at North Anna Nuclear Power Plant to evaluate and assess the plant conditions as well as the integrity and safety of onsite spent fuel storage systems. These inspections confirmed that there was no damage that had any impact on safety-related features. Some casks experienced minor shifting on the pad that did not impact safety. The spent fuel continued to be surrounded by several tons of steel and concrete and the storage system seals were intact. Radiation surveys indicated no changes to cask surface dose rates, and there were no releases due to the shifting of the systems. As part of the outcome of the NRC's inspections, the licensee sought, and the NRC approved, an amendment to allow the casks that had shifted to remain in place rather than moving them back to the original location. Documentation related to these inspections is publicly available in

ADAMS and includes (1) information submitted as part of the amendment request submitted by the licensee (ADAMS Accession No. ML14160A707), (2) the Final Environmental Assessment (ADAMS Accession No. ML15022A575), and (3) the documentation related to Amendment 4 (ADAMS Package Accession No. ML15050A395) of the ISFSI license. The NRC's assessment of the earthquake at the North Anna Power Plant confirmed that the spent fuel storage casks could safely remain in place.

The petitioner also stated that transport capacity for shipment offsite must be required for matters of security. As stated earlier in this document, moving the spent fuel offsite after an environmental emergency or security incident would likely not be the best course of action. Moving the spent fuel from storage onto a public highway or rail system represents a higher risk than protecting the spent fuel storage casks in place, because it increases the potential for unnecessary dose to workers or the public. Storage licensees must have security provisions in place that include physical barriers; surveillance; intrusion detection and response; and, if needed, assistance from local law enforcement, in accordance with 10 CFR part 73, "Physical Protection of Plants and Materials." These measures provide an adequate level of safety and security.

Finally, the petitioner also stated that "NRC Chapter 1 of the Standard Review Plan (NUREG–1567) should clearly define Part 72.122(i); 72.236(h); and in 72.236(m)." The petitioner did not provide any additional information regarding this statement. The NUREG–1567 provides guidance to the NRC staff for reviewing applications for specific license approval for commercial ISFSIs. Granting the petitioner's request would not result in a rulemaking. The NRC staff will consider making the clarification when it works on the next revision of NUREG–1567.

Petitioner Request 9

The NRC is denying Request 9 for the following reasons. After further evaluation of Request 9, and considering the information resulting from the NRC staff's work on COMSECY–10–0007, the NRC staff concludes that a hot cell transfer station coupled with an auxiliary pool is not needed because the requirements currently in place in 10 CFR part 72 are adequate to ensure safety. In the **Federal Register** notice published in October 2012 that addressed the other requests in the petition, the NRC indicated that the need for a hot cell transfer station coupled with an auxiliary pool was still being evaluated as part of the NRC staff's review of the regulatory changes that might be necessary to safely store fuel for multiple renewal periods. The NRC staff stated that, "as discussed in Section 3.1 of Enclosure 1 of COMSECY–10–0007, research is needed to develop the safety basis for the behavior of high burnup fuel during extended storage periods. Whether the fuel retains sufficient structural integrity for extended storage and eventual transportation may affect whether the NRC would require dry transfer capability at decommissioned reactors storing high burnup fuel."

The NRC periodically conducts research activities related to the storage of spent nuclear fuel to confirm the safety of operations and enhance the regulatory framework to address any changes in technology, science, and policies. The NRC conducts analyses of beyond design basis conditions to confirm that regulatory requirements continue to provide reasonable assurance for safe storage and transportation of spent nuclear fuel. Additionally, the NRC evaluates the performance of spent nuclear fuel under normal and accident conditions. Recent analyses included evaluation of the effects of high burnup fuel. Two recent studies related to these research activities were completed and published in 2015: (1) NUREG/CR–7198, "Mechanical Fatigue Testing of High-Burnup Fuel for Transportation Applications," published in May 2015 (ADAMS Accession No. ML15139A389), and (2) NUREG/CR–7203, "A Quantitative Impact Assessment of Hypothetical Spent Fuel Reconfiguration in Spent Fuel Storage Casks and Transportation Packages," published in September 2015 (ADAMS Accession No. ML15266A413).

The NUREG/CR–7198 documents an evaluation of the ability for high burnup fuel containing mostly circumferential hydrides to maintain its integrity under normal conditions of transport. Using an innovative testing system that imposes pure bending loads on the spent fuel rod, high burnup spent fuel rods underwent bending tests to simulate conditions relevant to both storage and transportation. The test results demonstrated that despite complexities and non-uniformities in the fuel cladding system, the high burnup fuel behaved in a manner that would be expected of more uniform materials.

The NUREG/CR–7203 documents a quantitative assessment of the impact on the safety of spent nuclear fuel storage casks and transportation packages of bounding and very unlikely beyond design basis hypothetical changes of fuel geometry. The study examined the potential changes to criticality, shielding, confinement/containment, and thermal characteristics of the systems due to changes in fuel geometry. The purpose of this study was to determine whether high burnup fuel is safe for storage and transport under normal, off-normal, and hypothetical accident conditions. The detailed conclusions from this study are quite lengthy; however, in summary, the study concluded that:

> Overall, the safety impacts of fuel reconfiguration are system design, content type, and loading dependent. The areas and magnitude of the impact vary from cask/package design to cask/package design. It should also be noted that some of the scenarios are extreme and physically unlikely to occur; they represent bounding values. The spent fuel storage systems and transportation packages approved by the NRC to date provide reasonable assurance that they are safe under normal, off-normal, and hypothetical accident conditions as prescribed in 10 CFR part 71 and 72 regulations.

The NRC staff recognized at the time of the initial review of the petition that ongoing research into the material properties of high burnup fuel could potentially result in a determination that high burnup fuel would require repackaging after a certain storage period. Therefore, this issue warranted further evaluation to determine if a regulatory requirement for dry transfer capability was needed before a final decision could be made on the petitioner's request. The NRC staff also recognized a potential issue with respect to degradation from aging of high burnup fuel that could cause damage to spent fuel cladding in storage. Based on evaluations of these potential issues in NUREG/CR–7198 and NUREG/CR–7203 the NRC has further evidence of reasonable assurance of adequate safety related to the mechanical behavior and potential degradation of high burnup fuel during extended storage and transportation for the systems approved to date.

The NRC continuously monitors safety and security issues related to the storage of spent nuclear fuel, including results from safety inspections and additional studies, when applicable. If the NRC became aware of any safety or security issues that could impact public health and safety, or security, the NRC would take action. This could include issuing Orders, rulemaking, or revising guidance to clarify requirements.

Additionally, when an ISFSI license is being evaluated for renewal, the licensee must establish an Aging Management Program (AMP) that manages aging effects. The intent of the AMP is to detect, monitor, and mitigate aging effects that could impact the safe storage of spent fuel. The AMP is required under the provisions of Section 72.42, "Duration of license; renewal," paragraph (a)(2) and Section 72.240, "Conditions for spent fuel storage cask renewal," paragraph (c)(3), for storage cask renewals. An AMP includes subcomponents such as: (1) Dry shielded canister external surfaces, (2) concrete cask, (3) transfer cask, (4) transfer cask lifting yoke, (5) cask support platform, and (6) high burnup fuel. Since high burnup fuel is included as an AMP for license renewal, this provides defense-in-depth in ensuring the integrity of the fuel cladding during periods of extended operation.

The NRC staff uses the guidance in NUREG–1927, "Standard Review Plan for Renewal of Spent Fuel Dry Cask Storage System Licenses and Certificates of Compliance," published in March 2011 (ADAMS Accession No. ML111020115) in reviewing renewal applications for spent fuel dry cask storage systems and certificates of compliance.

The NUREG–1927 is currently being revised to update guidance and to include information gained from the work previously discussed in this document. The revision to NUREG–1927 was noticed for public comment in the **Federal Register** on July 7, 2015 (80 FR 38780). The AMPs are consistent with 10 program elements that are described in NUREG–1927, including items such as the scope; preventive actions; parameters monitored or inspected; and detection of aging effects before there is a loss of any structure and component function, etc. The AMPs will help ensure timely detection, mitigation, and monitoring of any degradation mechanisms.

An example of NRC staff's review of license renewal applications that include an AMP for high burnup fuel is the recently completed review of the license renewal application for the Calvert Cliffs ISFSI in October 2014 (ADAMS Package Accession No. ML14274A022). From this review, the NRC staff determined that the Calvert Cliffs ISFSI had met the requirements of 10 CFR 72.42(a), which addresses the duration of a license and renewal of such license. As previously discussed in this document, 10 CFR 72.42(a)(2) has a specific requirement for an AMP. The NRC staff concluded in the safety evaluation for this renewal (ADAMS Accession No. ML14274A038) that the dry cask storage systems are still robust and could be renewed.

Additionally, the NRC has a defense-in-depth approach to safety that includes (1) requirements to design and operate spent fuel storage systems that minimize the possibility of degradation; (2) requirements to establish competent organizations staffed with experienced, trained, and qualified personnel; and (3) NRC inspections to confirm safety and compliance with requirements. Based on the NRC's current requirements, licensee maintenance and review programs, and NRC inspections, the NRC staff is confident that issues will be identified early to allow corrective actions to be taken in a timely fashion.

In summary, the NRC has made significant progress on relevant regulatory efforts and evaluations discussed earlier in this document and information gained from that work contributed to current revisions of regulatory guidance, standard review plans, and the NRC staff's reviews of renewal applications. Based on the work performed to date, the results do not indicate a need to revise the regulations. Based on the NRC's review of the petition, the specific changes requested by the petitioner are not necessary to ensure safety and security. The storage and transportation regulations are robust, adequate, and sufficiently compatible to ensure safe and secure storage and transportation of spent nuclear fuel. The NRC staff continues to review and evaluate the storage of spent nuclear fuel and the safety of storage casks and ISFSIs. If a potential health, safety, or security issue is identified, the NRC will take action to address the concern.

III. Conclusion

For the reasons cited in this document, the NRC is denying the petitioner's two requests from PRM–72–6 that were deferred pending additional research and evaluation on the storage of spent fuel storage. After completing its research, the NRC has concluded that the current regulatory requirements are adequate to protect public health and safety.

Dated at Rockville, Maryland, this 20th day of June, 2016.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2016–14998 Filed 6–23–16; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2016–BT–TP–0023]

RIN 1904–AD70

Energy Efficiency Program: Test Procedure for Televisions; Request for Information

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Request for Information (RFI).

SUMMARY: The U.S. Department of Energy (DOE) is initiating a rulemaking to consider whether revisions are needed to the test procedure for televisions. To inform interested parties and to facilitate this process, DOE has gathered data and identified several issues associated with the current DOE test procedure on which DOE is particularly interested in receiving comment. The issues outlined in this document mainly concern on-mode power measurement. DOE welcomes written comments from the public on any subject within the scope of the television test procedure (including topics not specifically raised in this request for information).

DATES: Written comments and information are requested on or before July 25, 2016.

ADDRESSES: Interested persons are encouraged to submit comments using the Federal eRulemaking Portal at *http://www.regulations.gov.* Follow the instructions for submitting comments. Alternatively, interested persons may submit comments, identified by docket number EERE–2016–BT–TP–0023, by any of the following methods:

- *Email: Televisions2016TP0023@ee.doe.gov.* Include docket number EERE–2016–BT–TP–0023 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, EERE–2016–BT–TP–0023, 1000 Independence Avenue SW., Washington, DC 20585– 0121. Phone: (202) 586–2945. Please submit one signed paper original.
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 6th Floor, 950 L'Enfant Plaza SW., Washington, DC 20024. Phone: (202) 586–2945. Please submit one signed paper original.

Instructions: All submissions received must include the agency name and docket number for this rulemaking. No telefacsimilies (faxes) will be accepted.

Docket: For access to the docket to read background documents and comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov/#!docketDetail;D=EERE-2016-BT-TP-0023.*

FOR FURTHER INFORMATION CONTACT: Jeremy Dommu, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–586–9870. Email: *televisions@ee.doe.gov.*

Jennifer Tiedeman, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: 202–287–6111. Email: *jennifer.tiedeman@hq.doe.gov.*

For information on how to submit or review public comments, contact Ms. Brenda Edwards, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–2945. Email: *Brenda.Edwards@ee.doe.gov.*

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I. Introduction

On October 25, 2013, DOE published a final rule adopting the test procedure for televisions ("TV procedure final rule") at appendix H to subpart B of 10 CFR part 430. 78 FR 63823. This test procedure includes methods for measuring active mode (on-mode), standby mode, and off mode power draw; screen luminance; and the annual energy use of television sets. As part of the on-mode testing, DOE adopted the use of the "International Electrotechnical Commission 62087 Edition 3: Methods of measurement for the power consumption of audio, video, and related equipment" (IEC 62087). IEC 62087 includes a video test clip on a DVD and BluRay disc to be used when conducting on-mode testing (IEC test clip), as well as screen luminance measurements (3-bar image).

The Energy Policy and Conservation Act of 1975 (42 U.S.C. 6291, *et seq.;* "EPCA") provides DOE the authority to consider and prescribe new energy conservation test procedures for TVs. (All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015)). Specifically, section 323 of EPCA sets forth generally applicable criteria and procedures for DOE's adoption and amendment of test procedures. EPCA provides that any test procedures prescribed or amended under this section must be reasonably designed to produce test results which measure energy efficiency, energy use, or estimated annual operating cost of a covered product during a representative average use cycle or period of use and shall not be unduly burdensome to conduct. (42 U.S.C. 6293(b)(3))

II. Discussion

A. Evaluation of the IEC Test Clip

DOE performed initial testing on three Brand X televisions (TVs), one Brand Y TV, and one Brand Z TV to determine how representative the current IEC test clip is in terms of measuring the energy use of TVs during a representative average use cycle or period of use. Table 1 has a description of each TV model DOE tested.

TABLE 1—TVS INCLUDED IN DOE'S INITIAL TESTING

ID #	Screen size	Resolution (horizontal × vertical pixels)	Smart TV (Y/N)	Backlight	Model year
Brand X #1	48″	1920 × 1080 (1080p)	Y	LED	2015
Brand X #2	48″	1280 × 720 (720p)	N	LED	2014
Brand X #3	48″	3840 × 2160 (4k)	Y	LED	2015
Brand Y #4	49″	1920 × 1080 (1080p)	Y	LED	2015
Brand Z #5	48″	1920 × 1080 (1080p)	Y	LED	2015

DOE tested each TV using multiple video clips and compared the power measurements when using the IEC test clip compared to other video clips. All video clips were upconverted to the TV's native resolution. The following video clips were used for testing:

1. IEC Test Clip

"IEC 62087 Edition 3.0 Blu-Ray Disc dynamic broadcast-content video signal." This is the standard video clip used as per the DOE test procedure. The video is 620 seconds long, including 10 seconds each of introduction and conclusion. The main content consists of various moving scenes, each typically lasting a few seconds.

2. Recut IEC Test Clip

To create the recut IEC video, DOE edited the video in the original IEC test clip. Specifically, DOE recut the original IEC video into twenty 30-second portions, plus the 10-second introduction and conclusion, and then shuffled the order of the clip.

3. Movie 1

The Movie 1 video is a 620-second portion of the BluRay movie "Cloudy with a Chance of Meatballs."

4. Movie 2

The Movie 2 video is a 620-second portion of a live-action movie ("National Treasure") recorded from an HD television broadcast. There are no commercials during this 620 second segment.

5. News

The News video is a 620-second portion of live news programming recorded from an HD television broadcast. It contains approximately 260 seconds of commercials, which occur in a single portion.

6. Sports 1

The Sports 1 video is a 620-second portion of a football game recorded from an HD (1080i) television broadcast. It contains approximately 270 seconds of commercials, which occur in two separate portions.

7. Sports 2

The Sports 2 video is a 620-second portion of a soccer game recorded from an online HD (720p) source. It does not contain any commercials.

DOE performed all this testing according to the DOE TV test procedure (except for the substituted video clip). For TVs with automatic brightness control enabled by default, DOE performed the comparisons only at 100 lux lighting because DOE expects the same behavior at all lux values. Table 2 shows the average on-mode power draw in watts (W) for the TVs tested using the various video clips described in this section.

TABLE 2—620-SECOND AVERAGE ON MODE POWER DRAW FOR EACH TESTED TV

Video clip	Brand X #1 (W)	Brand X #2 (W)	Brand X #3 (W)	BRAND Y #4 (W)	Brand Z #5 (W)
IEC	52.7	29.7	91.1	42.6	69.4
Recut IEC	52.4	29.7	93.6	41.4	69.1
Movie 1	64.0	29.9	113.2	58.1	69.0
Movie 2	54.8	29.6	103.7	48.3	69.8
News	55.1	29.9	89.7	58.7	70.6
Sports 1	51.7	29.7	95.2	52.8	69.7
Sports 2	52.4	29.7	87.3	58.5	70.6

While there was no significant difference in power draw for the Brand X #2 or Brand Z #5 across all tested clips, Brand Y #4, Brand X #1, and Brand X #3 exhibited differences in power draw between the IEC test clips and other video sources. This difference in power draw appears to be related to the amount of motion in the video clips, discussed in further detail in the following section.

B. On-Mode Power Draw With Motion Detection Functionality

Brand X #1, Brand X #3 and Brand Y TVs have certain brightness features enabled by default settings that are sometimes referred by "Motion Lighting" (ML) or "Motion Eye Care" (MEC). According to the description in user manuals, these features reduce the brightness of the TV when displaying high-motion content. The ML feature has two options: On and Off. The MEC feature has three options: High, Low, and Off. By default, the Brand X TVs were set to "On" and the Brand Y TV was set to "High." DOE conducted its initial testing of these models using these default modes. DOE then disabled these features (*i.e.*, DOE set the TVs to "ML Off" and "MEC Off," respectively) and re-ran all of the test clips to evaluate how the features affect the TV power draw. Again, the test setup and power measurements were performed according to the DOE test procedure (except for the substituted video clips). The following sections describe the test results for each of the Brand X and Brand Y TVs.

1. Brand X #1

Table 3 shows the results of the tests for Brand X #1.

TABLE 3—620-SECOND AVERAGE POWER DRAW FOR BRAND X #1 WITH ML ON AND ML OFF

Video	Brand X #1 (W)		
	ML On	ML Off	% Increase
IEC	52.7	70.5	34
Recut IEC	52.4	70.4	34
Movie 1	64	70.2	10
Movie 2	54.8	70.3	28
News	55.1	70.4	28
Sports 1	51.7	69.6	35
Sports 2	52.4	70.4	34

For Brand X #1, the IEC clip showed a 34% increase in power draw when ML was off compared to "ML On," which is the default setting. The same increase was found when the units were tested using the Sports 1 and Sports 2 clips, but the increase was much smaller when the units were tested using Movie 1. The following power traces over the duration of each clip show in greater detail how ML affected the TV's on-mode power draw.

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Figure 1: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during IEC Video

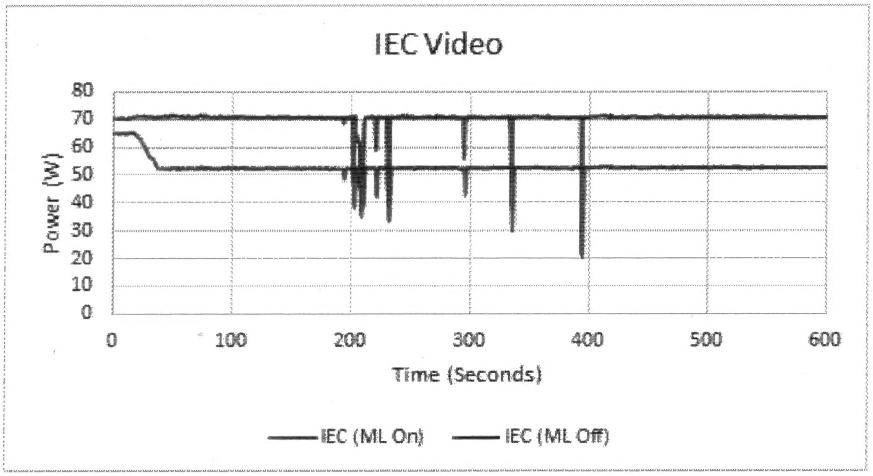


Figure 2: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during Recut IEC Video

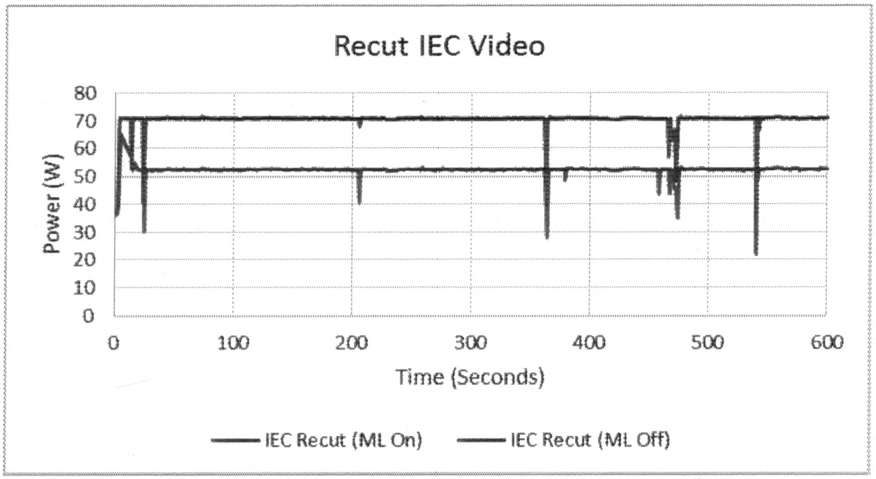


Figure 3: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during Movie 1 Video

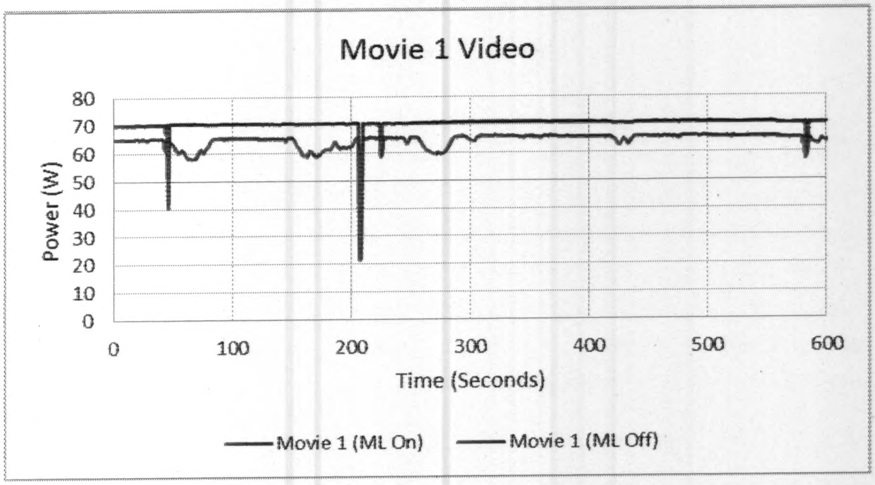


Figure 4: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during Movie 2 Video

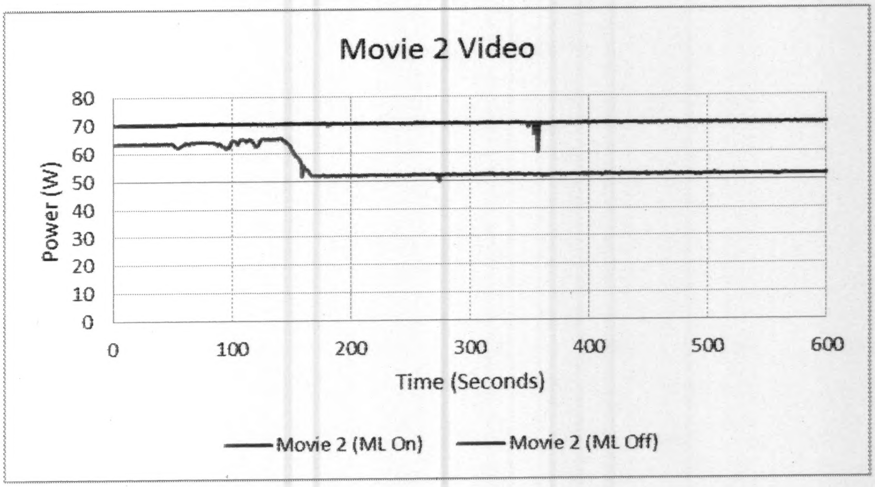


Figure 5: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during News Video

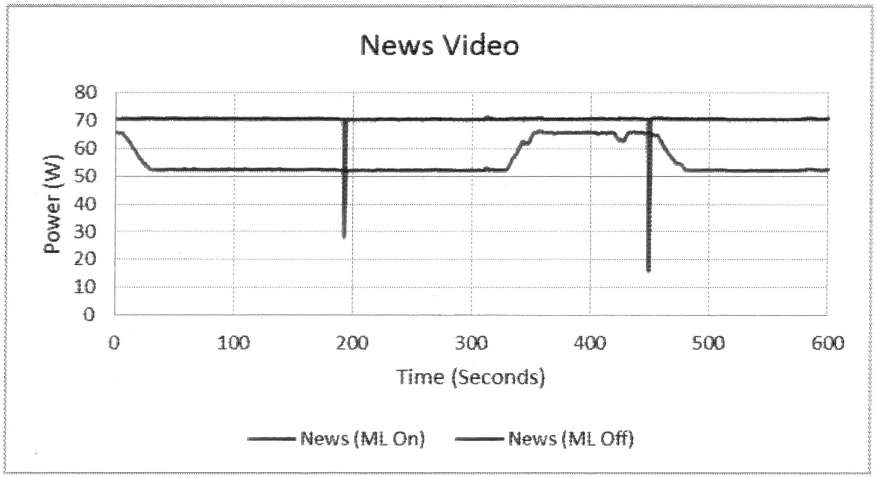


Figure 6: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during Sports 1 Video

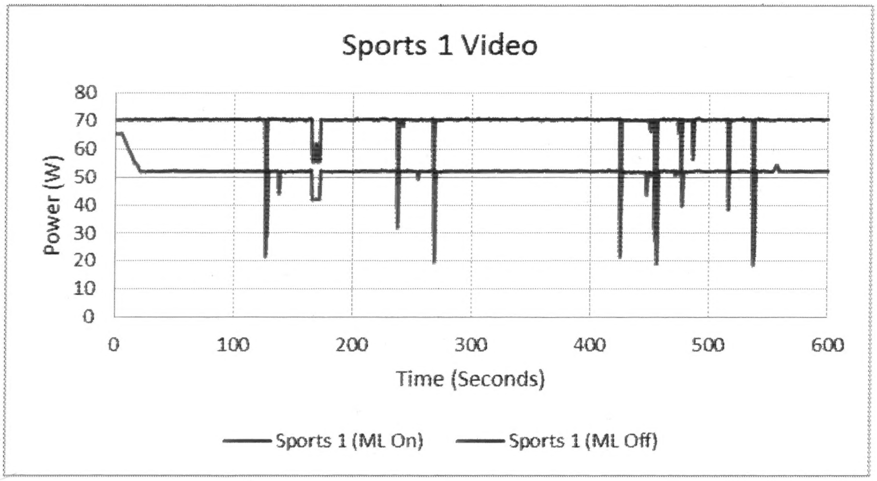
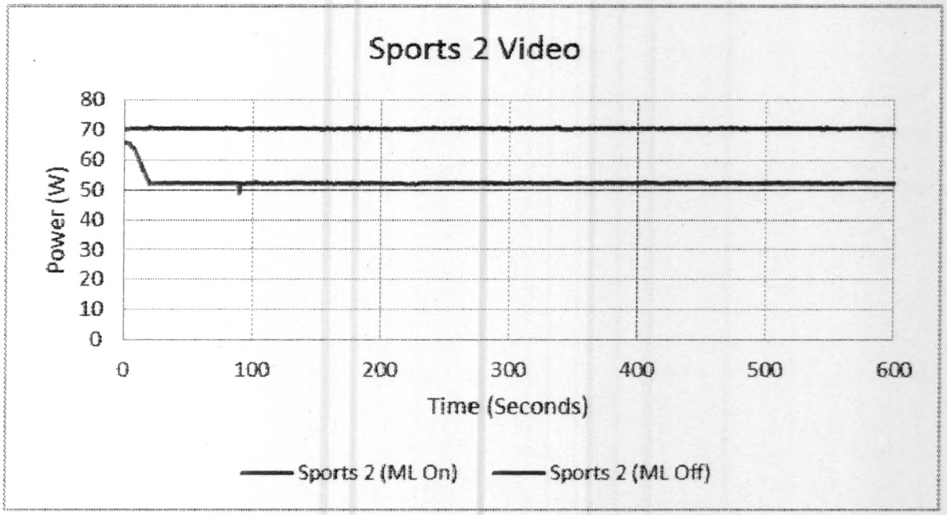


Figure 7: Comparison of Power Usage of ML On versus ML Off for Brand X #1 during Sports 2 Video



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In summary, IEC, Sports 1, and Sports 2, ML On caused a sharp reduction in the power draw near the beginning of each clip, and the power draw remained lower for the duration of the clip. In the case of Movie 2, ML On did not cause a reduction in the power draw until much later in the clip. In the News clip, ML caused the TV to drop in power, except for one portion in the middle of the clip. And for Movie 1, ML had a much smaller impact and did not reduce Brand X 1's power draw significantly. Thus, ML appeared to detect motion and reduce power when a certain amount of motion was detected.

2. Brand X #3

Table 4 shows the results of the tests for Brand X #3.

TABLE 4—620-SECOND AVERAGE POWER DRAW FOR BRAND X #3 WITH ML ON AND ML OFF

Video	Brand X #3 (W)		
	ML On	ML Off	% Increase
IEC	91.1	103.3	13
Recut IEC	93.6	102.9	10
Movie 1	113.2	104.2	−8
Movie 2	103.7	103.3	0
News	89.7	104.2	16
Sports 1	95.2	103.1	8
Sports 2	87.3	104.6	20

Brand X #3 showed a slightly different behavior than Brand X #1. Although the average power draw by Brand X #3 while playing IEC with ML On was still very close to the lowest power draw across all of the video clips, the power draw by Brand X #3 while playing News and Sports 2 content was even lower. For Movie 1 and Movie 2, the TV used even more power with ML On than ML Off. With ML Off, the power values were fairly consistent regardless of video clip. The following power traces over the duration of each clip show in greater detail how ML affected the TV's on-mode power draw.

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Figure 8: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during IEC Video

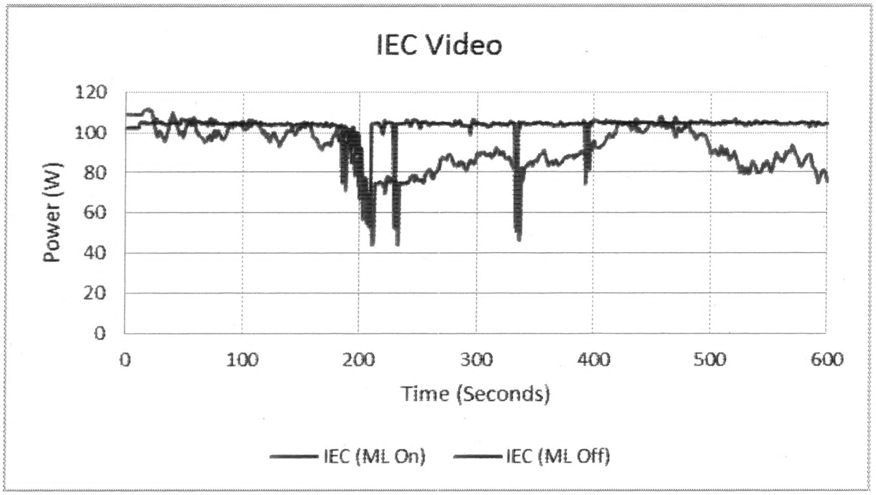


Figure 9: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during Recut IEC Video

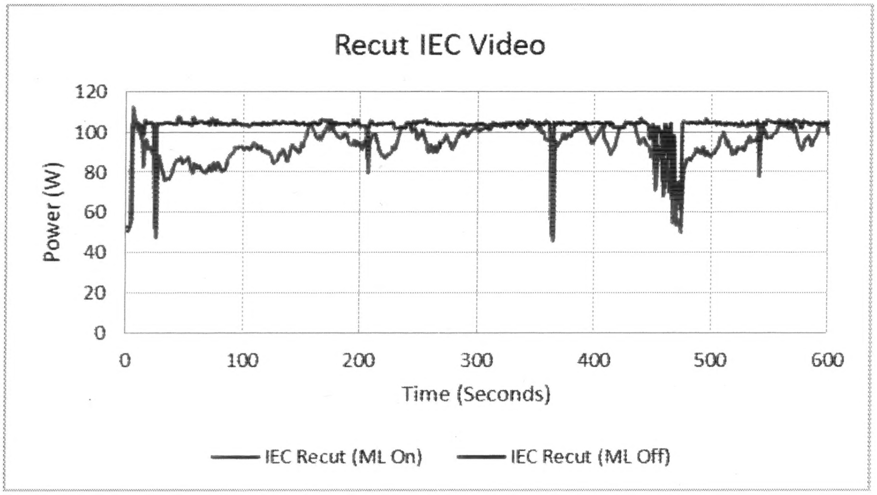


Figure 10: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during Movie 1 Video

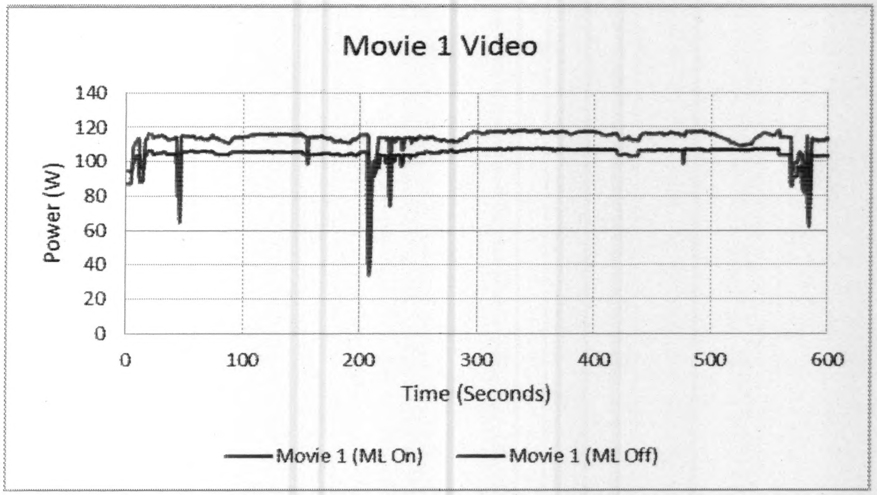


Figure 11: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during Movie 2 Video

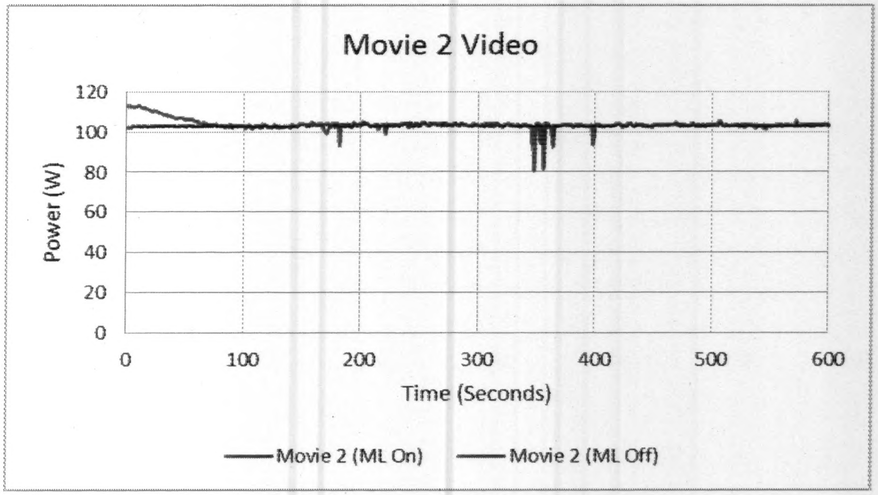


Figure 12: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during News Video

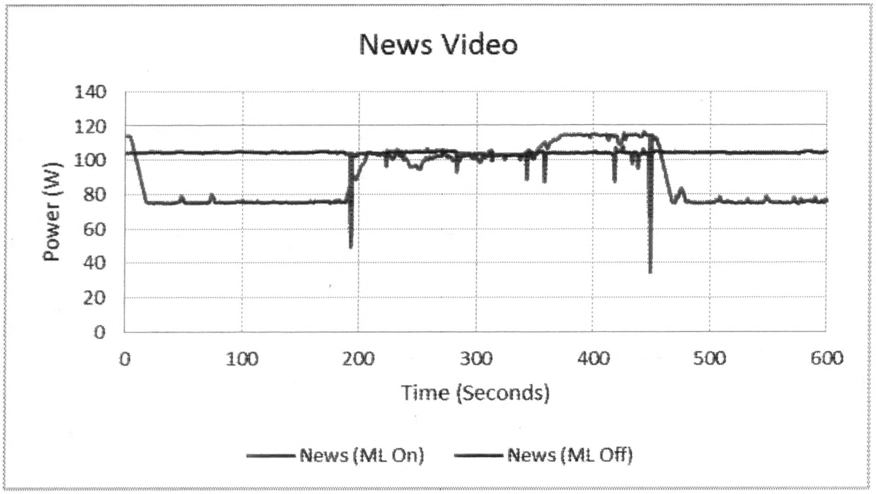


Figure 13: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during Sports 1 Video

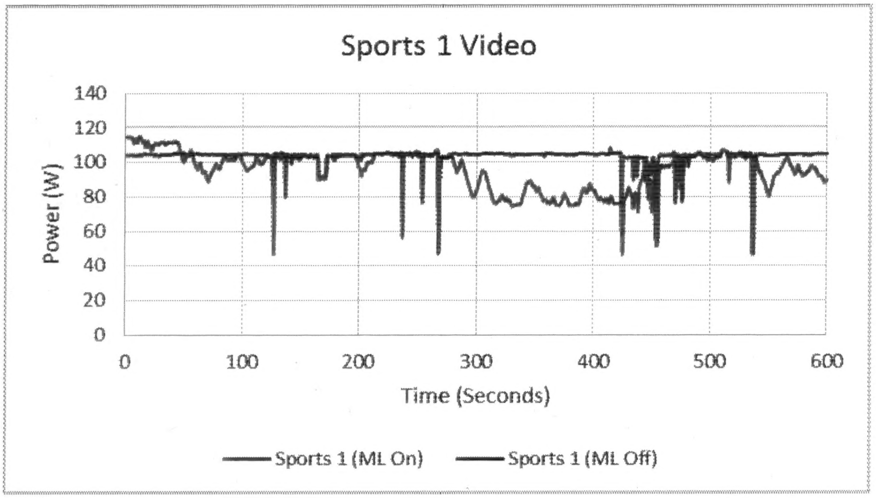


Figure 14: Comparison of Power Usage of ML On versus ML Off for Brand X #3 during Sports 2 Video

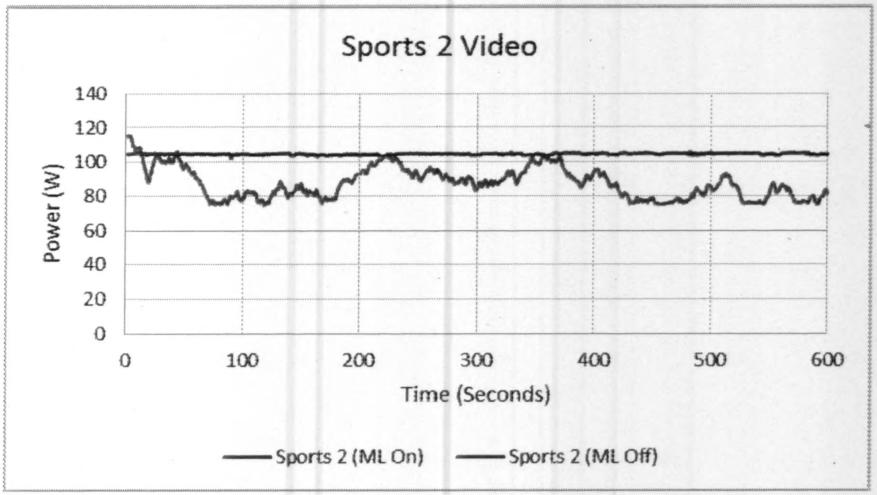


Figure 15: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during IEC Video

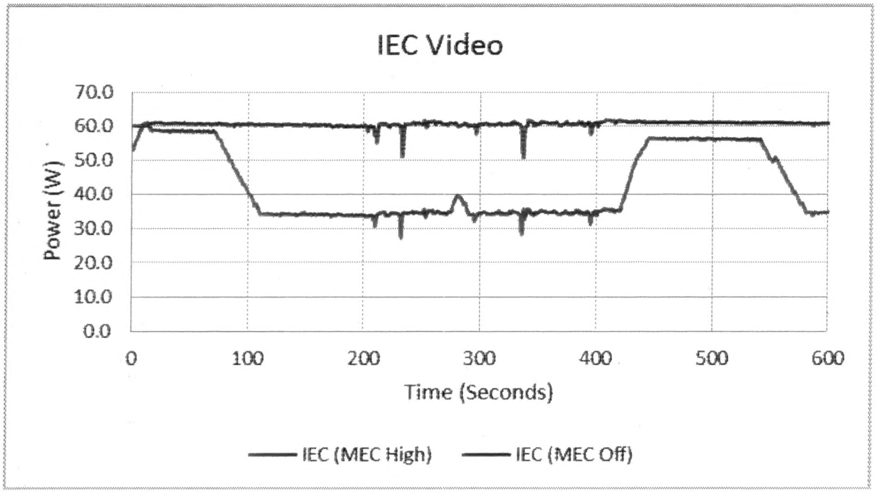
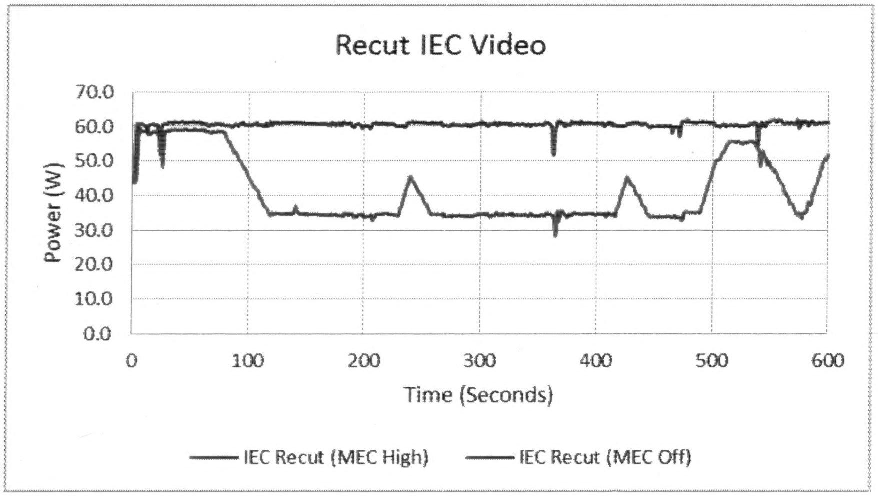


Figure 16: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during Recut IEC Video



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With ML Off, the power traces were all generally flat regardless of video clip. With ML On, the power measurement fluctuated significantly but, unlike Brand X #1, the measured power was greater for certain clips than with ML Off.

3. Brand Y #4

Table 5 shows the results of the tests for Brand Y #4.

TABLE 5—620-SECOND AVERAGE POWER DRAW FOR BRAND Y #4 WITH MEC HIGH AND MEC OFF

Video	Brand Y #4 (W)		
	MEC High	MEC Off	% Increase
IEC	42.6	60.7	42
Recut IEC	41.4	60.6	46
Movie 1	58.1	60.5	4
Movie 2	48.3	60.5	25
News	58.7	61.1	4
Sports 1	52.8	60.6	15
Sports 2	58.5	60.8	4

For Brand Y #4, the IEC test clip showed the lowest power draw associated with any of the video clips using MEC High (default). Movie 1, News, and Sports 2 showed little difference between power draw using MEC High and MEC Off, whereas Movie 2 and Sports 1 showed a larger difference between the two modes. The largest difference in power between MEC High and MEC Off occurred when testing using the IEC clip and the recut IEC clip. The following power traces over the duration of each clip show in greater detail how MEC affected the TV's on-mode power draw.

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Figure 17: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during

Movie 1 Video

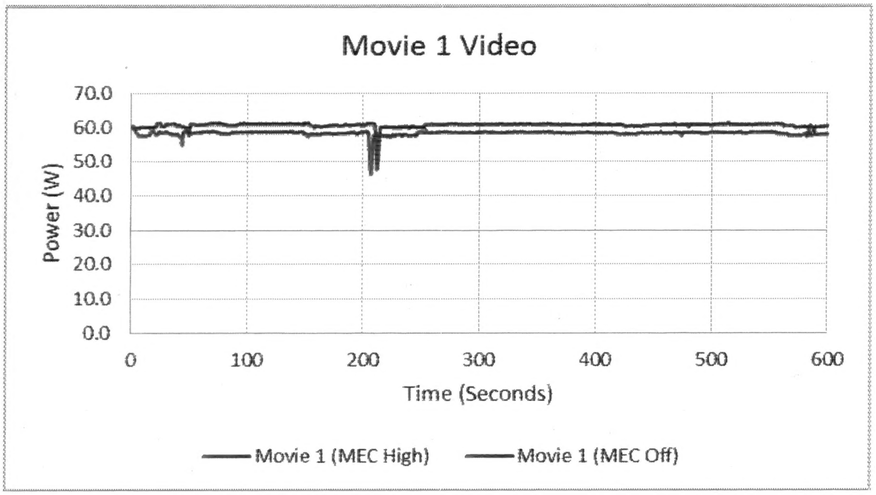


Figure 18: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during

Movie 2 Video

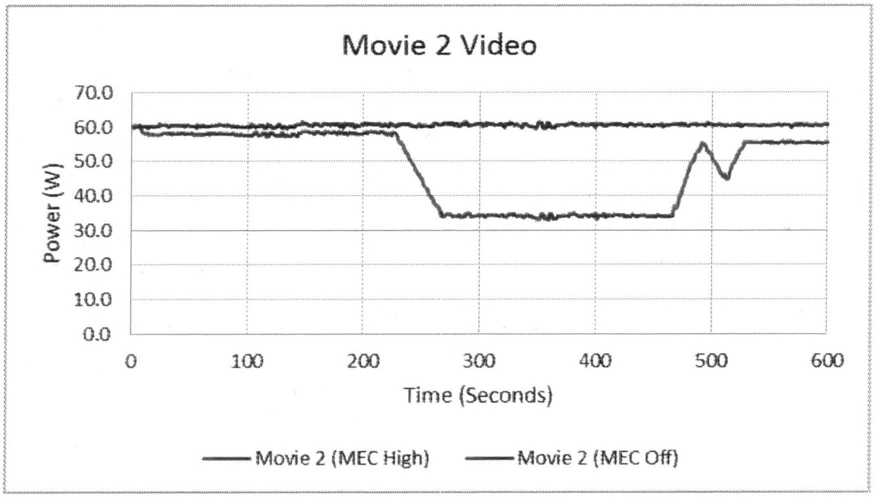


Figure 19: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during

News Video

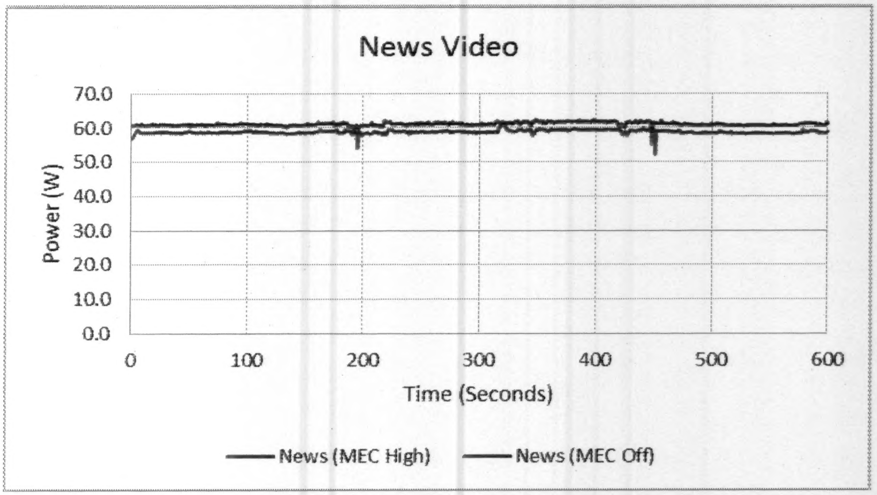


Figure 20: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during

Sports 1 Video

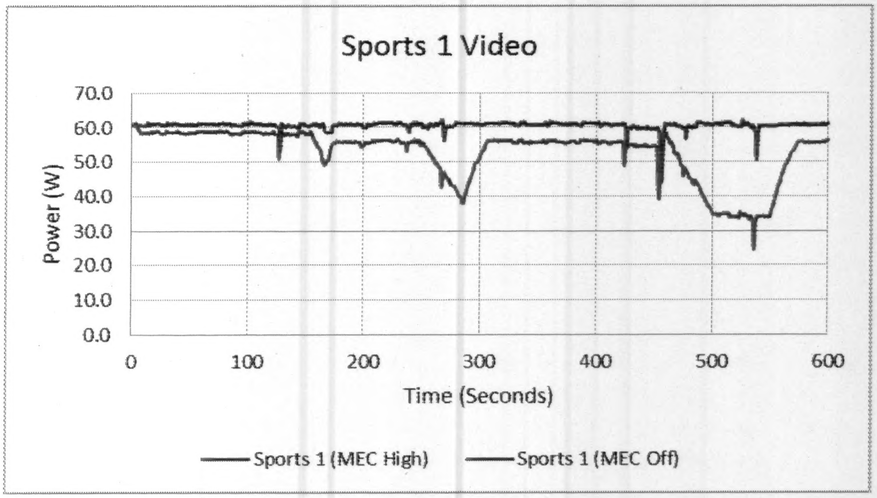
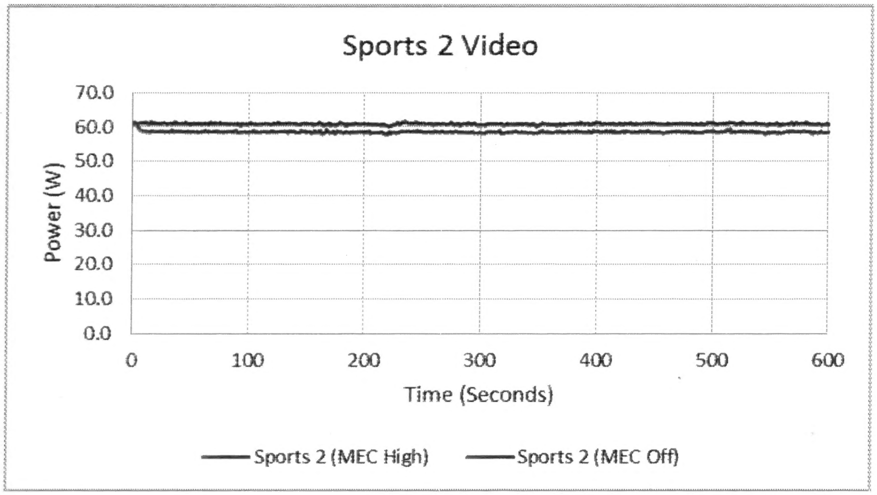


Figure 21: Comparison of Power Usage of MEC High versus MEC Off for Brand Y #4 during Sports 2 Video



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For all video clips other than IEC and recut IEC, MEC seemed to have very little impact on the power draw of the TV. Although the MEC setting had some impact on power draw during the Movie 2 and Sports 1 clips, the impact was much less significant than with respect to the IEC clip.

4. Observations

Based on the results, it appears that ML and MEC have different impacts on power draw among different content and TV models. However, for all tested models, the IEC clip usually triggered the largest reduction in power when enabled, implying that the IEC clip and recut IEC clip contained the most motion among all of the tested video clips. This is consistent with DOE's observation of the IEC test clip, which is composed of short segments of high motion video stitched together, so that the video content has faster changing scenes compared to most content a user typically would watch. Thus, DOE is seeking feedback on the following questions:

- What is the utility to the user of the dimming of screen luminance based on high levels of motion found in television content? Does this feature adversely impact the typical consumer viewing experience?
- What alternative video content could DOE use in its test procedure to better capture TV performance during a representative average use cycle or period of use?

C. Default Luminance With Motion Detection Functionality

DOE also evaluated how ML and MEC affected the default luminance in the three TV models discussed above, as measured by the DOE test procedure. Because luminance is measured with a static 3-bar image, DOE evaluated whether the ML or MEC feature would have any impact on the luminance of different parts of the screen. Table 6 results show that screen luminance, as measured by the DOE test procedure, is unchanged whether ML or MEC are enabled or disabled.

TABLE 6—MEASURED SCREEN LUMINANCE AND POWER FOR BRAND X #1, BRAND X #3, AND BRAND Y #4

TV	Brand X #1		Brand X #3		Brand Y #4	
ML/MEC State	On	Off	On	Off	On	Off
Bottom Luminance (cd/m²)	174	172	227	200	186	186
Center Luminance (cd/m²)	191	188	255	223	227	227
Top Luminance (cd/m²)	158	155	232	203	188	187
Power (W)	63.1	67.5	108.9	99.4	60.4	60.4

ML and MEC affect the luminance during on-mode testing using a test clip, but this effect is not captured with the luminance test using the static 3-bar image specified in the DOE test procedure. Thus, the luminance test does not necessarily capture and therefore is not necessarily representative of normal use, depending on whether a TV is shipped with a higher or lower luminance setting. DOE is seeking information on the following questions:

- Does the current luminance test capture the impact of ML and/or MEC during a representative average use cycle or period of use?

- What alternative luminance tests, if any, would provide useful information about how a TV performs during a representative average use cycle or period of use?

D. Settings That Impact Motion Detection Functionality

Last, DOE evaluated the preset picture settings that enabled ML and MEC in the tested units. While ML and MEC were always enabled in the default picture setting of the tested units, none of the other preset picture settings had these features enabled. For Brand Y, there were 6 preset picture settings other than the default setting (Vivid, Standard, Cinema, Sports, Game, and Expert), all of which disabled MEC. And in the case of Brand X's ML feature, only the default picture setting left ML enabled, and any change to the brightness or contrast of the TV automatically disabled ML. Based on these findings, DOE seeks feedback on the following questions:

- How does the manufacturer determine if a particular picture setting should have this motion detection feature enabled or disabled?
- How common is it for users to operate TVs in the default setting throughout the lifetime of the TV? Are there any data suggesting that users are encouraged to disable motion detection features or any other special function by the user manual or any other product information?
- DOE found that changes to a television's picture setting and/or adjustments to the brightness or contrast of a TV may automatically disable a special function, such as a motion detection feature, that is part of the default setting. Given this finding, does the television test procedure, which conducts the on-mode power test in the default setting, measure on-mode power in the television configuration that is representative of typical use?

E. Forced Menu

DOE recognizes that picture settings, such as brightness and contrast, and configuration of special functions, such as quick start or energy efficiency modes, have a significant impact on the energy consumption of a TV. DOE received numerous comments and went through several revisions of its test procedure proposals[1] in order to establish the current uniform test method for measuring the power consumption of television sets that provides manufacturers with clear instructions regarding how to configure the picture mode settings for testing the on-mode power draw of a television. As ultimately adopted, the DOE test procedure for televisions requires that on-mode power be measured using the default picture setting. This is the as-shipped preset picture setting that the television enters upon initial set-up. Recognizing that some TVs are designed to automatically display message prompts requiring the user to select configurable options (as opposed to the user proactively entering the settings menu to configure the television), DOE requires in these instances that the most power consumptive option be selected when testing the unit (*see* section 5.5 of the DOE test procedure). Additionally, the test procedure requires that the home configuration be selected, if prompted, from a forced menu (as opposed to a retail configuration).

Essentially, the selection of the home configuration is the only exception to the requirement that the tester must select the most energy consumptive option when setting up a television for the on-mode test. So, if given a choice between home or retail configurations, the tester should always select the home configuration even if the retail configuration is more consumptive. For any other prompt, whether it is from the initial setup menu or a separate message prompt that appears at another time during the on-mode operation of the TV, the tester must always select the most energy consumptive configuration. DOE's intent is to ensure that manufacturers include energy-saving features as part of the default picture setting (without automatically displaying a message prompt to configure the feature) if they wish for that feature to be enabled when measuring the on-mode power. While DOE is certainly not opposed to manufacturers providing options that make their televisions more efficient than the default settings, DOE intends for the test procedure to capture the power of a TV that is measured using the most commonly used picture setting—which DOE assumed to be the default setting. A TV is only tested with special functions that reduce energy consumption turned on if they are truly part of the most commonly used settings (currently presumed to be default), and there are no prompts that appear which provide users an option to disable them.

In providing these specifications, DOE attempted to cover all television design scenarios to ensure that the TV was set up in this manner. However, one manufacturer has argued that the current language in the DOE test procedure allows users to select options other than the most consumptive configuration during initial television setup under certain forced menu designs. For example, in the preamble to the TV test procedure final rule, DOE assumed a forced menu would first request selecting either home or retail configuration, and then subsequent message prompts that appear after the initial selection of home or retail would request configuration of other special functions, such as enabling or disabling energy efficient modes. In discussing the configuration of special functions in the preamble to the TV test procedure final rule, DOE discussed the special function configuration criteria in section 5.5 of the DOE Test Procedure assuming that the message prompt requesting configuration of a special function came after the initial selection of the home configuration from a forced menu. While DOE assumed this message prompt would come after the initial selection of the home configuration from a forced menu, DOE's intention is that manufacturers would select the most energy consumptive option if prompted at any time, even if that question came on the initial forced menu before the initial selection of the home configuration. DOE clarified the television configuration requirements by issuing a final guidance document in April 2014[2] that clearly specified the most power consumptive configuration must be selected whenever a message prompt is displayed requesting configuration of a special function, including configurations selected from a forced menu. However, given the findings discussed in paragraph (d) of this RFI that energy saving features may automatically disable when changing preset picture settings or adjusting television brightness or contrast, DOE requests stakeholder comments on whether testing the television in its default configuration is appropriate.

Given the advancement in television design, the ability of manufacturers to customize the design of their forced menus, and the rationale behind testing televisions in the default configuration, DOE seeks to ensure that the forced menu, special function configurations, and any other requirements related to setting up the television for conducting the on-mode power measurement are clear and representative of an average use cycle.

Hence, DOE is soliciting comment on the following questions:

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[1] Television Test Procedure Notice of Proposed Rulemaking, 77 FR 2830 (January 19, 2012) and Television Test Procedure Supplemental Notice of Proposed Rulemaking, 78 FR 15807 (March 12, 2013).

[2] See *http://www1.eere.energy.gov/guidance/detail_search.aspx?IDQuestion=647&pid=2&spid=1.*

- Is the regulatory text clear on how to set-up a television for testing? Are there ways for definitions or requirements in the television test procedure regulatory text to be rewritten to ensure that all requirements related to setting up a television for testing are objective and would apply uniformly regardless of television design?
- Should DOE consider measuring on-mode power in picture settings other than the default picture setting? If so, what picture setting(s) should be tested, and how can DOE prescribe picture setting testing requirements that are representative of television settings during a representative average use cycle or period of use, as well as ensure that the requirements are repeatable and reproducible in a laboratory testing environment?

III. Submission of Comments

DOE invites all interested parties to submit in writing by July 25, 2016, comments and information on matters addressed in this RFI and on other matters relevant to the test procedure for televisions.

After the close of the comment period, DOE will begin collecting data, conducting analyses, and reviewing public comments. These actions will be taken to aid in the revision of the test procedure NOPR for televisions, if DOE determines that revisions are necessary.

DOE considers public participation to be a very important part of the process for developing test procedures. DOE actively encourages the participation and interaction of the public during the comment period. Interactions with and between members of the public provide a balanced discussion of the issues and assist DOE in the rulemaking process. Anyone who wishes to be added to the DOE mailing list to receive future notices and information about this rulemaking may do so at *https://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/34.*

Issued in Washington, DC, on June 16, 2016.

Kathleen Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2016–14982 Filed 6–23–16; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–6138; Airspace Docket No. 16–AEA–3]

Proposed Amendment of Class E Airspace, Indiana, PA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend Class E airspace at Indiana, PA, to accommodate the new runway at Indiana County Airport (Jimmy Stewart Field). Controlled airspace is necessary for the safety and management of instrument flight rules (IFR) operations at the airport. This action also would update the geographic coordinates of airport.

DATES: Comments must be received on or before August 8, 2016.

ADDRESSES: Send comments on this proposal to: U.S. Department of Transportation, Docket Operations, M–30, West Bldg. Ground Floor Rm. W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone: (202) 366–9826; Fax: 202–493–2251. You must identify the Docket Number FAA–2016–6138; Airspace Docket No. 16–AEA–3, at the beginning of your comments. You may also submit and review received comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: John Fornito, Operations Support Group, Eastern Service Center, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–6364.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part, A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace at Indiana County Airport (Jimmy Stewart Field), Indiana, PA.

Comments Invited

Interested persons are invited to comment on this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA–2016–6138; Airspace Docket No. 16–AEA–3) and be submitted in triplicate to the address listed above. You may also submit comments through the Internet at *http://www.regulations.gov.*

Persons wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–6138; Airspace Docket No. 16–AEA–3." The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded from and comments submitted through *http://www.regulations.gov*. Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.regulations.gov*.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal Holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal Holidays at the office of the Eastern Service Center, Federal Aviation Administration, Room 350, 1701 Columbia Avenue, College Park, Georgia 30337.

Persons interested in being placed on a mailing list for future NPRM's should contact the FAA's Office of Rulemaking, (202) 267–9677, to request a copy of Advisory circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is considering an amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 to amend Class E airspace extending upward from 700 feet above the surface at Indiana County Airport (Jimmy Stewart Field), Indiana, PA. Airspace reconfiguration to within a 8.2-mile radius of the airport and within 2 miles either side of the 096° bearing from the airport, extending from the 8.2-mile radius to 13.6 miles east of the airport is necessary to support the new runway at the airport. Controlled airspace is necessary for IFR operations. The geographic coordinates of the airport would be adjusted to coincide with the FAAs aeronautical database.

Class E airspace designations are published in Paragraph 6005 of FAA Order 7400.9Z, dated August 6, 2015, and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore; (1) is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal would be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, effective September 15, 2015, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AEA PA E5 Indiana, PA [Amended]

Indiana County Airport (Jimmy Stewart Field), PA
(Lat. 40°37′52″ N., long. 79°06′05″ W.)

That airspace extending upward from 700 feet above the surface within a 8.2-mile radius of Indiana County Airport (Jimmy Stewart Field), and within 2-miles either side of the 096° bearing of the airport, extending from the 8.2-mile radius to 13.6 miles east of the airport.

Issued in College Park, Georgia, on June 16, 2016.

Debra L. Hogan,

Acting Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2016–14880 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2016–6967; Airspace Docket No. 16–AWP–7

Proposed Amendment of Class E Airspace; Santa Rosa, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace designated as an extension to a Class D airspace at Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA, by reducing the segment extending northwest of the airport and adding a segment southeast of the airport. This action also proposes to modify Class E airspace extending upward from 700 feet above the surface to include only that area required for Instrument Flight Rules (IFR) operations at the airport. Additionally, this action updates the airport's geographic coordinates for both Class D and E airspace areas. A review of the airspace has made this proposal necessary for the safety and management of Standard Instrument Approach Procedures for IFR operations at the airport.

DATES: Comments must be received on or before August 8, 2016.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2016–6967; Airspace Docket No. 16–AWP–7, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527), is on the ground floor of the building at the above address.

FAA Order 7400.9Z, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: 202–267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.9Z at NARA, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.9, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would modify Class D and Class E airspace at Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA–2016–6967/Airspace Docket No. 16–AWP–7." The postcard will be date/time stamped and returned to the commenter.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015. FAA Order 7400.9Z is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.9Z lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 to modify Class E airspace designated as an extension at Charles M. Schulz-Sonoma County Airport, Santa Rosa, CA, by creating an area southeast of the airport to contain IFR arrivals below 1,000 feet above the surface, and by reducing in size the Class E surface area extension northwest of the airport to only that necessary to contain IFR arrivals below 1,000 feet above the surface. Class E airspace extending upward from 700 feet above the surface would be modified to include only that area necessary to contain IFR arrivals below 1,500 feet above the surface and IFR departures until reaching 1,200 feet above the surface. The proposal would also update the airport's geographic coordinates for all Class D and E airspace areas. The proposed modifications are necessary for the safety and management of IFR operations at the airport.

Class D and Class E airspace designations are published in paragraph 5000, 6004, and 6005, respectively, of FAA Order 7400.9Z, dated August 6, 2015 and effective September 15, 2015, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a "significant regulatory action" under Executive Order 12866; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.9Z, Airspace Designations and Reporting Points, dated August 6, 2015, and effective September 15, 2015, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP CA D Santa Rosa, CA

Santa Rosa, Charles M. Schulz-Sonoma County Airport, CA
(Lat. 38°30′35″ N., long. 122°48′46″ W.)

That airspace extending upward from the surface up to and including 2,600 feet MSL within a 4.3-mile radius of Santa Rosa/Charles M. Schulz-Sonoma County Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP CA E4 Santa Rosa, CA

Santa Rosa, Charles M. Schulz-Sonoma County Airport, CA
(Lat. 38°30′35″ N., long. 122°48′46″ W.)

That airspace extending upward from the surface within 1.8 miles east and 2.8 miles west of the 342° bearing from the Charles M. Schulz-Sonoma County Airport, CA, extending from the 4.3 mile radius of the airport to 7.4 miles northwest of the airport, and that airspace extending upward from the surface within 1.2 miles each side of the 156° bearing from the airport extending from the 4.3 mile radius to 6.3 miles southeast of the airport.

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AWP CA E5 Santa Rosa, CA

Santa Rosa, Charles M. Schulz-Sonoma County Airport, CA
(Lat. 38°30′35″ N., long. 122°48′46″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 38°42′14″ N., long. 122°46′18″ W.; to lat. 38°38′58″ N., long. 122°59′10″ W.; to lat. 38°21′20″ N., long. 122°58′26″ W.; to lat. 38°19′23″ N., long. 122°54′00″ W.; to lat. 38°24′00″ N., long. 122°39′26″ W.; thence to the point of origin.

Issued in Seattle, Washington, on June 16, 2016.

Brian J. Johnson

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2016–14879 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[EPA–HQ–OAR–2002–0021; FRL–9948–27–OAR]

RIN 2060–AN36

National Emission Standards for Hazardous Air Pollutants: Site Remediation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 13, 2016, the Environmental Protection Agency (EPA) proposed a rule titled, "National Emission Standards for Hazardous Air Pollutants (NESHAP): Site Remediation." The EPA is extending the comment period on the proposed rule that was scheduled to close on June 27, 2016, by thirty days. The EPA has received letters from trade organizations and calls from business organizations requesting additional time to review and comment on the proposed rule revisions.

DATES: The public comment period for the proposed rule published in the **Federal Register** on May 13, 2016 (81 FR 529821), is being extended. Written comments must be received on or before July 27, 2016.

ADDRESSES: The EPA has established docket for the proposed rulemaking (available at *http://www.regulations.gov*). The Docket ID No. is EPA–HQ–OAR–2002–0021. Information on this action is posted at *http://www.epa.gov/ttn/atw/siterm/sitermpg.html*. Submit your comments, identified by the appropriate Docket ID, to the *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or withdrawn. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. If you need to include CBI as part of your comment, please visit *http://www.epa.gov/dockets/comments.html* for instructions. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make.

For additional submission methods, the full EPA public comment policy, and general guidance on making effective comments, please visit *http://www.epa.gov/dockets/comments.html*.

FOR FURTHER INFORMATION CONTACT: For additional information on this action, contact Paula Hirtz, Refining and Chemicals Group, Sector Policies and Programs Division (E143–01), Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2618; fax number: (919) 541–0246; email address: *hirtz.paula@epa.gov*.

SUPPLEMENTARY INFORMATION: After considering the requests to extend the public comment period received from trade and business organizations, the EPA has decided to extend the public comment period until July 27, 2016. This extension will ensure that the public has additional time to review and comment on the proposed rule.

Dated: June 17, 2016.

Stephen D. Page,

Director, Office of Air Quality Planning and Standards.

[FR Doc. 2016–15012 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 70

[EPA–R02–OAR–2015–0837; FRL–9948–31–Region 2]

Clean Air Act Title V Operating Permit Program Revision; New Jersey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New Jersey title V Operating Permit Program requested by the New Jersey Department of Environmental Protection (NJDEP) on May 15, 2015. NJDEP adopted a rule revision on December 29, 2014, to change the fee schedule for certain permitting activities for major facilities, including application fees for significant modifications and fees to authorize general operating permit registration and operation of used oil space heaters. The adopted rule took effect on February 27, 2015. NJDEP submitted a request to EPA to incorporate the revised fee schedule into its Operating Permit Program. EPA proposes to approve the requested change as a revision to the NJOPP.

DATES: Comments must be received on or before July 25, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R02–OAR–2015–0837, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Suilin Chan, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–4019.

SUPPLEMENTARY INFORMATION: This section provides additional information by addressing the following items:

I. Background

EPA granted full approval of the New Jersey title V Operating Permit Program on December 5, 2001 (66 FR 63168). The New Jersey Operating Permit Program (NJOPP) is implemented through its Operating Permits Rule codified at Subchapter 22 of Chapter 27 of Title 7 of the New Jersey Administrative Code (N.J.A.C. 7:27–22). As mandated by title V of the Clean Air Act (CAA) as well as its implementing regulations found in part 70 of Title 40 of the Code of Federal Regulations (40 CFR part 70), an approved State must establish a fee schedule that results in the collection and retention of revenues sufficient to cover the direct and indirect costs of implementing the State's operating permit program. NJDEP periodically adjusts the title V fee schedule stipulated at N.J.A.C. 7:27–22 to ensure that the NJOPP is adequately funded by fees collected from subject sources. EPA's evaluation of New Jersey's title V fee program during a program audit conducted in 2012 showed that the fees collected by New Jersey were insufficient to cover the costs of administering the NJOPP. The NJOPP has a deficit carried over year after year that accumulated to $7.5 million dollars as of fiscal year (FY) 2011. As of FY 2014, the cumulative shortfall was over $10 million dollars. New Jersey is required to resolve the funding issue by taking all necessary actions.

II. Summary of Program Revision

On December 29, 2014, New Jersey finalized rule revisions to amend certain fee provisions for major facilities in its Operating Permits Rule, codified at N.J.A.C. 7:27–22. For significant modifications, NJDEP charges major facilities base fees for straightforward applications and adds supplementary fees for more complex applications. The prior fee schedules for significant modifications were found at N.J.A.C. 7:27–22.31(r), (s), (v) and (w). These provisions expired on December 29, 2014 and have now been deleted. New Jersey's revision replaces these provisions with a new Base Fee Schedule and Supplementary Fee Schedule for significant modifications, found at N.J.A.C 7:27–22.31(y) and N.J.A.C 7:27–22.31(z) respectively.

New Jersey's revision also updated the fee schedule for a major facility's registration under a General Operating Permit and authorization to operate a used oil space heater. The prior fee schedule for these actions was located at N.J.A.C. 7:27–22.31(t) and (x) and expired on December 29, 2014. New Jersey's revision deletes those provisions and replaces them with a new fee schedule at N.J.A.C. 7:27–22.31(aa).

Finally, New Jersey's revision updates other provisions of the Operating Permits Rule to reflect references to the new fee schedules rather than the prior now-deleted provisions, including at N.J.A.C. 7:27–22.1 (definition of "probe") and N.J.A.C. 7:27–22.31(a)(6), (e), (k)(1), (k)(2), (p) and (u)(4), (5), (7), and (9). For details of New Jersey's revision of its Operating Permits Rule, please refer to the public docket.

New Jersey has found that these increases in fees are necessary to provide additional funding to help reduce the deficit for the NJOPP, and the rule changes effectuating the increases have undergone the State's complete rulemaking process. On May 15, 2015, NJDEP submitted a request that these revisions to its Operating Permits Rule be incorporated into New Jersey's Operating Permit Program as a program revision, in accordance with 40 CFR 70.4(i).[1] This proposed rule would grant that request.

III. Proposed Action

The State of New Jersey has adopted rule revisions to increase the base and supplementary fees for significant modifications at major facilities, at N.J.A.C. 7:27–22.31(y) and (z), and registration fees for major facilities' use of General Operating Permits and authorization to operate used oil space heaters at N.J.A.C. 7:27–22.31(aa). The rule revisions also deleted outdated fee provisions at 7:27–22.31(r)–(t) and (v)–(x) and updated cross-references found in N.J.A.C. 7:27–22.1 (definition of "probe") and N.J.A.C. 7:27–22.31(a)(6), (e), (k)(1), (k)(2), (p) and (u)(4), (5), (7), and (9). The rule revisions were adopted in accordance with the state's rulemaking procedures on December 29, 2014. The rule changes are necessary to increase fee revenues to fund the NJOPP. The requirement that revenues collected from sources subject to a state's Operating Permits Program provide funding sufficient to cover the permit program's costs is mandated by title V of the CAA and its implementing regulations at 40 CFR 70.9. In today's action, pursuant to 40 CFR 70.4(i)(2), EPA is proposing to approve NJDEP's May 15, 2015 request to incorporate New Jersey's Operating Permits Rule (N.J.A.C. 7:27–22) as revised on December 29, 2014 as a revision to New Jersey's Operating Permit Program. EPA is soliciting public comments on EPA's proposed action to incorporate the revised rule into the NJOPP. These comments will be considered before taking final action.

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[1] In the same document, NJDEP submitted rule revisions related to minor facilities fees found at N.J.A.C. 7:27–8 as a SIP submittal. This SIP submittal will be addressed in a separate rulemaking.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a "significant regulatory action" and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" (66 FR 28355, May 22, 2001).

This proposed action merely proposes to approve State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It also does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

Because this rule proposes to approve pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This proposed rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

This action also does not have federalism implications because it does not have substantial direct effects on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act.

This proposed rule also is not subject to Executive Order 13045 "Protection of Children from Environmental Health Risks and Safety Risks" (62 FR 19885, April 23, 1997), because it is not economically significant.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), 15 U.S.C. 272 *note,* requires Federal agencies to use technical standards that are developed or adopted by voluntary consensus to carry out policy objectives, so long as such standards are not inconsistent with applicable law or otherwise impracticable. In reviewing State Operating Permit Programs submitted pursuant to title V of the Clean Air Act, EPA will approve such regulations provided that they meet the requirements of the CAA and EPA's regulations codified at 40 CFR part 70. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove such regulations for failure to use VCS. It would, thus, be inconsistent with applicable law for EPA, when it reviews such regulations, to use VCS in place of a State regulation that otherwise satisfies the provisions of the Clean Air Act. Thus, the requirements of section 12(d) of the NTTAA do not apply.

This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 70

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Operating permits, Reporting and recordkeeping requirements.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2016.

Judith A. Enck,

Regional Administrator, Region 2.

[FR Doc. 2016–15004 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2016–0174; FRL–9947–05–Region 8]

Wyoming: Proposed Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant authorization to the State of Wyoming for the changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the state's changes through a direct final action. In addition, the EPA is proposing to codify in the regulations entitled "Approved State Hazardous Waste Management Programs," Wyoming's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under RCRA.

DATES: Send written comments by July 25, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2016–0174 by mail to Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, 1595 Wynkoop Street, Mail Code 8P–R, Denver, Colorado 80202. You may also submit comments electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules section of this **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Christina Cosentini at (303) 312–6231, *cosentini.christina@epa.gov.*

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing changes to the Wyoming program, in addition to codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule.

Unless EPA receives written comments that oppose the authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose the authorization, we will withdraw the direct final rule and it will not take immediate effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

Dated: May 11, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2016–14283 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 271 and 272

[EPA–R08–RCRA–2016–0131; FRL–9947–03–Region 8]

South Dakota: Proposed Authorization of State Hazardous Waste Management Program Revisions and Incorporation by Reference

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to grant authorization to the State of South Dakota for the changes to its hazardous waste program under the Solid Waste Disposal Act, as amended, commonly referred to as the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the state's changes through a direct final action. In addition, the EPA is proposing to codify in the regulations entitled "Approved State Hazardous Waste Management Programs," South Dakota's authorized hazardous waste program. The EPA will incorporate by reference into the Code of Federal Regulations (CFR) those provisions of the State regulations that are authorized and that the EPA will enforce under RCRA.

DATES: Send written comments by July 25, 2016.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R08–RCRA–2016–0131 by mail to Christina Cosentini, Resource Conservation and Recovery Program, EPA Region 8, 1595 Wynkoop Street, Mail Code: 8P–R, Denver, Colorado 80202. You may also submit comments electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Christina Cosentini at (303) 312–6231, *cosentini.christina@epa.gov.*

SUPPLEMENTARY INFORMATION: In the "Rules and Regulations" section of this **Federal Register**, the EPA is authorizing changes to the South Dakota program, in addition to codifying and incorporating by reference the State's hazardous waste program as a direct final rule. The EPA did not make a proposal prior to the direct final rule because we believe these actions are not controversial and do not expect comments that oppose them. We have explained the reasons for this authorization and incorporation by reference in the preamble to the direct final rule.

Unless the EPA receives written comments that oppose the authorization and incorporation by reference during the comment period, the direct final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose the authorization, we will withdraw the direct final rule and it will not take immediate effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

Dated: May 11, 2016.

Shaun L. McGrath,

Regional Administrator, Region 8.

[FR Doc. 2016–14297 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 16–182; RM–11770; DA 16–691]

Radio Broadcasting Services; Eagle Butte, South Dakota

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a Petition for Rule Making filed by Cheyenne River Sioux Tribe, proposing to amend the FM Table of Allotments, section 73.202(b) of the Commission's Rules, by allotting Channel 228C1 at Eagle Butte, South Dakota, as the first local Tribal-owned service. A staff engineering analysis indicates that Channel 228C1 can be allotted to Eagle Butte consistent with the minimum distance separation requirements of the Commission's rules with no site restriction. The reference coordinates are 45–01–32 NL and 101–14–22 WL.

DATES: Comments must be filed on or before August 8, 2016, and reply comments on or before August 23, 2016.

ADDRESSES: Secretary, Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner as follows: Harold Frazier, Cheyenne River Sioux Tribe, P.O. Box 1683, Eagle Butte, SD 57625.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Notice of Proposed Rule Making,* MB Docket No. 16–182, adopted June 16, 2016, and released June 17, 2016. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 Twelfth Street SW., Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain proposed information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, therefore, it does not contain any proposed information collection burden "for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4).

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by adding Eagle Butte, Channel 228C1.

[FR Doc. 2016–14935 Filed 6–23–16; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 16–690; MB Docket No. 15–167; RM–11751]

Radio Broadcasting Services; Grant, Oklahoma

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Dismissal.

SUMMARY: At the request of the petitioner, Katherine Pyeatt, this *Report and Order* dismisses the proposed allotment of FM Channel 286A at Grant, Oklahoma, File No. BNPH–20141029ACJ, and terminates the proceeding. It also dismisses, as requested by Southeast Oklahoma Radio LLC (SOR), the SOR counterproposal for station KTMC–FM, McAlester, Oklahoma, File No. BPH–20150831ABE. Furthermore, the Report and *Order* grants the proposed upgraded facility filed by Liberman Broadcasting of Dallas LLC (Liberman) for Station KZMP–FM, Channel 285C0, Pilot Point, Texas, File No. BPH–20141028AAK and approves the Liberman-Pyeatt Reimbursement Agreement.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Report and Order,* MB Docket No. 15–167, adopted June 16, 2016, and released June 17, 2016. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 2016–14936 Filed 6–23–16; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 81, No. 122
Friday, June 24, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program—Trafficking Controls and Fraud Investigations

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed collection. This is a revision of a currently approved collection codified by Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 274.6(b)(5) and 274.6(b)(6).

Food and Nutrition Service (FNS) regulations at 7 CFR 274.6(b)(5) allow State agencies to deny a request for a replacement SNAP Electronic Benefit Transfer (EBT) card until the household makes contact with the State agency if the requests for replacement cards are determined to be excessive. The State agency may determine the threshold for excessive card replacments, not to be less than four replacement cards in a 12-month period.

FNS regulations at 274.6(b)(6) require State agencies to monitor EBT card replacement requests and send notices to households when they request four cards within a 12-month period. The State agency shall be exempt from sending this Excessive Replacement Card Notice if it adopts the card withholding option in accordance with 7 CFR 274.6(b)(5) and sends the requisite Withholding Replacement Card Warning Notice on the fourth replacement card request.

DATES: Written comments must be submitted on or before August 23, 2016.

ADDRESSES: Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the agency's estimated burden for the proposed information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Jane Duffield, Branch Chief, State Administration Branch, Program Accountability and Administration Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 818, Alexandria, VA 22302. You may also download an electronic version of this notice at *http://www.fns.usda.gov/snap/federal-register-documents/rules/view-all* and comment via email at *SNAPSAB@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Room 822, Alexandria, Virginia 22302.

All comments to this notice will be included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of this information collection should be directed to Clyde Thompson at (703) 305–2461.

SUPPLEMENTARY INFORMATION:

Title: Supplemental Nutrition Assistance Program: Trafficking Controls and Fraud Investigations.

OMB Number: 0584–0587.

Expiration Date: 9/30/2016.

Type of Request: Revision of a currently approved collection.

Abstract: FNS regulations at 7 CFR 274.6 requires State Agencies to issue warning notices to withhold replacement cards or a notice for excessive replacement cards.

Withhold Replacement Card Warning Notice: State agencies may require an individual member of a household to contact the State agency to provide an explanation in cases where the number of requests for card replacements is determined excessive. The State agency must notify the household in writing when it has reached the threshold, indicating that the next request for card replacement will require the client to contact the State agency to provide an explanation for the requests, before the replacement card will be issued. The State agency must also notify the household in writing once the threshold has been exceeded and the State agency is withholding the card until contact is made.

Excessive Replacement Card Notice: State agencies must monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household their account is being monitored for potential, suspicious activity. The State agency is exempt from sending this notice if they have chosen to exercise the option to withhold the replacement card until contact is made with the State agency.

The current approval annual burden is 8,336 hours. The updated estimated annual burden is approximately 21,940.41 hours. This revised estimate reflects an increase since the last OMB approval, due to having more accurate figures of State participation and household card request. This updated version also includes the time it takes a household to read the notice required by 274.6(b)(6), which was not included in the original burden. FNS estimates that it will take State personnel approximately 2 minutes to generate and mail each required notice to the client, to comply with 7 CFR 274.6; and that it will take SNAP recipients approximately 2 minutes to read each notice they receive and 28 minutes to make contact with the State agency when required. FNS is currently aware of two State agencies which have opted to follow our regulations at 274.6(b)(5) to withhold replacement cards, with an additional State agency considering the option. All other State agencies follow our regulations at 274.6(b)(6) for the Excessive Replacement Card Notice. Available data from 2015 shows that on average 2,527.5 households in a State request five or more replacement cards within 12 months. FNS estimates that half of all recipients who receive a notice upon issuance of their fourth card (5,055) will not request a fifth card.

Annual Reporting Burden Estimates

Affected Public: Individual/Household; and State and Local Government Agencies.

Estimated Number of Respondents: 275,549.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Responses: 550,994.

Estimated Total Annual Burden on Respondents: 21,940.

ESTIMATED ANNUAL BURDEN FOR 0584–0587 SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM: TRAFFICKING CONTROLS AND FRAUD, 7 CFR 274

CFR	Title	Number of respondents	Annual responses per respondent	Total annual responses	Burden hours per response	Total burden hours
Affected Public: State and Local Agencies						
274.6(b)(5)	Withhold Replacement Card Warning Notice.	3	5,055	15,165	0.0334	506.5
274.6(b)(5)	Replacement Card Withheld Notice.	3	2,527.5	7,583	0.0334	253.2
274.6(b)(6)	Excessive Replacement Card Notice.	50	5,055	252,750	0.0334	8,441.85
Subtotal		53	5,198	275,498	0.0334	9,201.55
Affected Public: Households						
274.6(b)(5)	Withhold Replacement Card Warning Notice.	15,165	1	15,165	0.0334	506.5
274.6(b)(5)	Replacement Card Withheld Notice.	7,581	1	7,581	0.5	3,790.5
274.6(b)(5)	Excessive Replacement Card Notice.	252,750	1	252,750	0.0334	8,441.85
Subtotal		275,496	1	275,496	.0462	12,738.85
Grand Total		275,549	2	550,994	0.0796	21,940.41

Dated: June 16, 2016.

Yvette S. Jackson,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2016–14993 Filed 6–23–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Supplemental Nutrition Assistance Program (SNAP), State Law Enforcement Bureau (SLEB) Fraud Investigations

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on this proposed information collection. This collection is a new collection for SNAP, SLEB Fraud Investigations.

DATES: Written comments must be received on or before August 23, 2016.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions that were used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to: Daniel Wilusz, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 422, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Daniel Wilusz at 703–305–1863 or via email to *Daniel.wilusz@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All responses to this notice will be summarized and included in the request for Office of Management and Budget (OMB) approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Leysha López Recci at 703–605–0253.

SUPPLEMENTARY INFORMATION:

Title: Supplemental Nutrition Assistance Program (SNAP), State Law Enforcement Bureau (SLEB) Fraud Investigations.

Form Number: Not Yet Assigned.

OMB Number: 0584–NEW.

Expiration Date: Not Yet Determined.

Type of Request: New collection.

Abstract: The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture is the Federal agency responsible for the Supplemental Nutrition Assistance Program (SNAP), (7 U.S.C. 2011–2036), which offers nutrition assistance to millions of eligible, low-income individuals and families and provides economic benefits to communities. FNS works with State partners to establish State Law Enforcement Bureau (SLEB) agreements to improve program administration and ensure program integrity. Through SLEB agreements, FNS authorizes State agencies to conduct investigations into possible SNAP fraud, and to obtain Electronic Benefits Transfer (EBT) benefits for such law enforcement and investigative activities. This form gathers data associated with SLEB investigations using SNAP EBT benefits and the expenses for investigative activities.

Affected Public: State government agencies that have a SLEB agreement with FNS.

Estimated Number of Respondents: The total estimated number of respondents is 53. This includes all States, the District of Columbia, and U.S. Territories that administer SNAP.

Estimated Number of Responses per Respondent: The respondents will be asked to complete this form 2 times per year.

Estimated Total Annual Responses: 106.

Estimated Time per Response: The time required to complete this information collection is estimated to average 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed, complete and review the information collection.

Estimated Total Annual Burden on Respondents: 212 hours (12,720 minutes).

Respondent	Estimated number of respondents	Responses annually per respondent	Total annual responses	Estimated average number of hours per response	Estimated total hours
Reporting Burden					
State government agencies that have a SLEB agreement with FNS	53	2.00	106.00	2.00	212.00

Dated: June 13, 2016.

Yvette S. Jackson,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2016–14991 Filed 6–23–16; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Rural Housing Service (RHS), and Rural Business-Cooperative Service (RBS), USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for a currently approved information collection in support of debt settlement of Community Facilities and Direct Business Program Loans and Grants.

DATES: Comments on this notice must be received by August 23, 2016 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Anita Outen, Community Programs Specialist, Community Programs, RHS, USDA, 1400 Independence Ave. SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1497, Email *anita.outen@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: 7 CFR part 1956, subpart C—"Debt Settlement—Community and Business Programs."

OMB Number: 0575–0124.

Expiration Date of Approval: November 30, 2016.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs loans and grants are debt settled by this currently approved docket (0575–0124). The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Opportunity Cooperative loans to assist incorporated and unincorporated associations to provide low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Business and Industry program is authorized by Section 310 B (7 U.S.C. 1932) (Pub. L. 92.419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, Section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The purpose of the debt settlement function for the above programs is to provide the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owned to the Agency.

The information collected is similar to that required by a commercial lender in similar circumstances.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 5.3 hours per response.

Respondents: Public bodies and nonprofit organizations.

Estimated Number of Respondents: 35.

Estimated Number of Responses per Respondent: 5.5.

Estimated Number of Responses: 193.

Estimated Total Annual Burden on Respondents: 1,041 hours.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork Management Branch, (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: June 14 2016.

Tony Hernandez,

Administrator, Rural Housing Service.

[FR Doc. 2016–14994 Filed 6–23–16; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Public Meeting of the Illinois Advisory Committee Discussing Current Civil Rights Concerns in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Illinois Advisory Committee (Committee) will hold a meeting on Friday, July 8, 2016, at 12:00 p.m. CDT. The purpose of this meeting is to discuss current civil rights in the state, and to identify potential areas of study for the next Committee inquiry.

This meeting is available to the public through the following toll-free call-in number: 888–428–9490, conference ID: 2361414. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement at the end of the meeting. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Member of the public are entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Regional Programs Unit, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Regional Programs Unit at (312) 353–8311.

Records and documents discussed during the meeting will be available for public viewing prior to and after the meeting at *https://database.faca.gov/committee/meetings.aspx?cid=246.* Click on the "Meeting Details" and "Documents" links to download. Records generated from this meeting may also be inspected and reproduced at the Regional Programs Unit, as they become available, both before and after the meeting. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda:

Welcome and Introductions
Review of written comment:
Environmental Justice in Illinois
Discussion of civil rights topics for study
Public Comment
Future plans and actions
Adjournment

DATES: The meeting will be held on Friday, July 8, 2016, at 12:00 p.m. CDT.

Public Call Information: Dial: 888–428–9490; Conference ID: 2361414.

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski at *mwojnaroski@usccr.gov* or 312–353–8311.

Dated: June 20, 2016.

David Mussatt,

Chief, Regional Programs Unit.

[FR Doc. 2016–14949 Filed 6–23–16; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 160607498–6498–01]

Current Mandatory Business Surveys

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of Determination.

SUMMARY: The Bureau of the Census (U.S. Census Bureau) has determined that it is conducting the following current mandatory business surveys for 2016: Annual Retail Trade Survey, Annual Wholesale Trade Survey, Service Annual Survey, Company Organization Survey, Annual Survey of Manufactures, Manufacturers' Unfilled Orders Survey, Annual Capital Expenditures Survey, Business R&D and Innovation Survey, Annual Survey of Entrepreneurs, Management and Organizational Practices Survey, and the Business & Professional Classification Report. We have determined that data collected from these surveys are needed to aid the efficient performance of essential governmental functions and have significant application to the needs of the public and industry. The data derived from these surveys, most of which have been conducted for many years, are not publicly available from nongovernmental or other governmental sources.

ADDRESSES: The Census Bureau will furnish reporting formats to organizations included in the surveys. Additional copies are available upon written request to the Director, U.S. Census Bureau, Washington, DC 20233–0101.

FOR FURTHER INFORMATION CONTACT: Nick Orsini, Assistant Director for Economic Programs, U.S. Census Bureau, 5H160, Washington, DC 20233, Telephone: 301–763–2558; Email: *Nick.Orsini@census.gov.*

SUPPLEMENTARY INFORMATION: The surveys described herein are authorized by Title 13, United States Code, sections 131 and 182 and are necessary to furnish current data on the subjects covered by the major censuses. These surveys are made mandatory under the provisions of sections 224 and 225 of Title 13, United States Code. These surveys will provide continuing and timely national statistical data for the period between economic censuses. The data collected in the surveys will be within the general scope and nature of those inquiries covered in the economic census. The next economic census will be conducted for the year 2017.

Annual Retail Trade Survey

The Annual Retail Trade Survey collects data on annual sales, sales tax, e-commerce sales, year-end inventories held inside and outside the United States, total operating expenses, purchases, and accounts receivable from a sample of employer firms with establishments classified in retail trade as defined by the North American Industry Classification System (NAICS).

Annual Wholesale Trade Survey

The Annual Wholesale Trade Survey collects data on annual sales, e-commerce sales, year-end inventories held both inside and outside of the United States, method of inventory valuation, total operating expenses, purchases, gross selling value, and commissions from a sample of employer firms with establishments classified in wholesale trade as defined by the North American Industry Classification System (NAICS).

Service Annual Survey

The Service Annual Survey collects annual data on total revenue, select detailed revenue, total and detailed expenses, and e-commerce revenue for a sample of businesses in the service industries, including Utilities; Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing; Professional, Scientific, and Technical Services; Administration and Support and Waste Management and Remediation Services; Educational Services; Health Care and Social Assistance; Arts, Entertainment, and Recreation; Accommodation and Food Services (starting in survey year 2016); and Other Services as defined by the North American Industry Classification System (NAICS).

Company Organization Survey

The Company Organization Survey collects annual data on ownership or control by a domestic or foreign parent and ownership of foreign affiliates; research and development; company activities such as employees from a professional employer organization, operating revenue and net sales, royalties and license fees for the use of intellectual property and manufacturing activities, operational status, mid-March employment, first-quarter payroll, and annual payroll of establishments from a sample of multi-establishment enterprises in order to update and maintain a centralized, multipurpose Business Register (BR) and also serves as a collection instrument for the Enterprise Statistics Program (ESP).

Annual Survey of Manufactures

The Annual Survey of Manufactures collects annual industry statistics, such as total value of shipments, employment, payroll, workers' hours, capital expenditures, cost of materials consumed, supplemental labor costs, and so forth. This survey is conducted on a sample basis, and covers all manufacturing industries, including data on plants under construction but not yet in operation.

Manufacturers' Unfilled Orders Survey

The Manufacturers' Unfilled Orders Survey collects annual data on sales and unfilled orders in order to provide annual benchmarks for unfilled orders for the monthly Manufacturers' Shipments, Inventories, and Orders (M3) survey. The Manufacturers' Unfilled Orders Survey data are also used to determine whether it is necessary to collect unfilled orders data for specific industries on a monthly basis, as some industries are not requested to provide unfilled orders data in the M3 Survey.

Annual Capital Expenditures Survey

The Annual Capital Expenditures Survey collects annual data on the amount of business expenditures for new and used structures and equipment from a sample of non-farm, non-governmental companies, organizations, and associations. Both employer and nonemployer companies are included in the survey. The data are the sole source of investment in buildings and other structures, machinery, and equipment by all private nonfarm businesses in the United States, by the investing industry, and by kind of investment.

Business R&D and Innovation Survey

The Business R&D and Innovation Survey (BRDIS) collects annual data on spending for research and development activities by businesses. This survey replaced the Survey of Industrial Research and Development that had been collected since the 1950's. The BRDIS collects global as well as domestic spending information, more detailed information about the R&D workforce, and information regarding innovation and intellectual property from U.S. businesses. The Census Bureau collects and compiles this information in accordance with a joint project agreement between the National Science Foundation (NSF) and the Census Bureau. The NSF posts the joint project's information results on their Web site.

Annual Survey of Entrepreneurs

The Annual Survey of Entrepreneurs (ASE) collects annual data from a sample of employer firms on the characteristics of the business and business owner(s). Estimates are produced for the number of firms, sales/receipts, annual payroll, and employment by gender, ethnicity, race, and veteran status. The ASE introduces a new topical module each year to measure a relevant business component related to business productivity and growth. The module fielded in 2016 for reference year 2015 will cover management and business practices. The ASE is a joint effort funded by the Ewing Marion Kauffman Foundation, the Minority Business Development Agency (MBDA), and the Census Bureau.

Management and Organizational Practices Survey

The Management and Organizational Practices Survey collects data periodically on management and organizational practices at the establishment level from a sample of manufacturing plants in order to produce estimates of the stock of management and organizational assets.

Business & Professional Classification Report

The Business & Professional Classification Report collects one-time data on a firm's type of business activity from a sample of newly organized employer firms. The data are used to update the sampling frames for our current business surveys to reflect these newly opened establishments. Additionally, the business classification data will help ensure businesses are directed to complete the correct report in the economic census.

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid Office of Management and Budget (OMB) control number. In accordance with the PRA, 44 U.S.C., Chapter 45, OMB approved the surveys described in this notice under the following OMB control numbers: Annual Retail Trade Survey, 0607–0013; Annual Wholesale Trade Survey, 0607–0195; Service Annual Survey, 0607–0422; Company Organization Survey, 0607–0444; Annual Survey of Manufactures, 0607–0449; Manufacturers' Unfilled Orders Survey, 0607–0561; Annual Capital Expenditures Survey, 0607–0782; Business R&D and Innovation Survey, 0607–0912; Annual Survey of Entrepreneurs, 0607–0986; Management and Organizational Practices Survey, 0607–0963; and, Business & Professional Classification Report, 0607–0189.

Based upon the foregoing, I have directed that the current mandatory business surveys be conducted for the purpose of collecting these data.

Dated: June 17, 2016.

John H. Thompson,

Director, Bureau of the Census.

[FR Doc. 2016–14970 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–037]

Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products From the People's Republic of China: Preliminary Determination and Alignment of Final Determination With Final Antidumping Duty Determination

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the "Department") preliminarily determines that countervailable subsidies are being provided to producers and exporters of certain biaxial integral geogrid products ("geogrids") from the People's Republic of China (the "PRC"). The period of investigation is January 1, 2015, through December 31, 2015. We invite interested parties to comment on this preliminary determination.

DATES: Effective Date: June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Bob Palmer or Ryan Mullen, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202.482.9068 or 202.482.5260, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Investigation

The products covered by this investigation are geogrids from the PRC. For a complete description of the scope of this investigation, see Appendix II.

Methodology

The Department is conducting this countervailing duty ("CVD") investigation in accordance with section 701 of the Tariff Act of 1930, as amended (the "Act"). For a full description of the methodology underlying our preliminary conclusions, *see* the Preliminary Decision Memo.[1] The Preliminary Decision Memo is a public document and is on file electronically *via* Enforcement & Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at *http://access.trade.gov,* and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memo can be accessed directly on the Internet at *http://trade.gov/enforcement/frn/index.html.* The signed Preliminary Decision Memo and the electronic versions of the Preliminary Decision Memo are identical in content.

The Department notes that, in making these findings, we relied, in part, on facts available and, because one or more respondents did not act to the best of their ability to respond to the Department's requests for information, we drew an adverse inference, where appropriate, in selecting from among the facts otherwise available.[2] For further information, *see* "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memo.

Alignment

As noted in the Preliminary Decision Memo, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), we are aligning the final CVD determination in this investigation with the final determination in the companion antidumping duty ("AD") investigation of geogrids from the PRC.[3] Consequently, the final CVD determination will be issued on the same date as the final AD determination, which is currently scheduled to be issued no later than October 31, 2016, unless postponed.

Preliminary Determination and Suspension of Liquidation

In accordance with section 703(d)(1)(A)(i) of the Act, we calculated an estimated individual countervailable subsidy rate for each producer/exporter of the subject merchandise individually investigated. We preliminarily determine these rates to be:

Company	Subsidy rate
BOSTD Geosynthetics Qingdao Ltd. and Beijing Orient Science & Technology Development Co., Ltd	16.60
Taian Modern Plastic Co., Ltd	30.65
All Others	23.63
Chengdu Tian Road Engineering Materials Co., Ltd *	128.27
Chongqing Jiudi Reinforced Soil Engineering Co., Ltd *	128.27
CNBM International Corporation *	128.27
Dezhou Yaohua Geosynthetics Ltd *	128.27
Dezhou Zhengyu Geosynthetics Ltd *	128.27

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[1] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Countervailing Duty Investigation of Certain Biaxial Integral Geogrid Products from the People's Republic of China: Decision Memorandum for the Preliminary Determination," dated concurrently with this notice ("Preliminary Decision Memo").

[2] *See* sections 776(a) and (b) of the Act.

[3] *See Certain Biaxial Integral Geogrid Products from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 81 FR 7755 (February 16, 2016).

Company	Subsidy rate
Hongye Engineering Materials Co., Ltd *	128.27
Hubei Nete Geosynthetics Ltd *	128.27
Jiangsu Dingtai Engineering Material Co., Ltd *	128.27
Jiangsu Jiuding New Material Ltd *	128.27
Lewu New Material Ltd *	128.27
Nanjing Jinlu Geosynthetics Ltd *	128.27
Nanjing Kunchi Composite Material Ltd *	128.27
Nanyang Jieda Geosynthetics Co., Ltd *	128.27
Qingdao Hongda Plastics Corp *	128.27
Shandong Dexuda Geosynthetics Ltd *	128.27
Shandong Haoyang New Engineering Materials Co., Ltd *	128.27
Shandong Tongfa Glass Fiber Ltd *	128.27
Shandong Xinyu Geosynthetics Ltd *	128.27
Tai'an Haohua Plastics Co., Ltd *	128.27
Taian Hengbang Engineering Material Co., Ltd *	128.27
Taian Naite Geosynthetics Ltd *	128.27
Taian Road Engineering Materials Co., Ltd *	128.27
Tenax*	128.27
Hengshui Zhongtiejian Group Co *	128.27
Qingdao Sunrise Dageng Import and Export Co., Ltd *	128.27

* Non-cooperative company to which an adverse facts available rate is being applied. *See* "Use of Facts Otherwise Available and Adverse Inferences" section in the Preliminary Decision Memorandum.

In accordance with section 703(d)(2) of the Act, we will direct U.S. Customs and Border Protection ("CBP") to suspend liquidation of all entries of geogrids from the PRC as described in the scope of the investigation section entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Section 703(e)(2) of the Act provides that, given an affirmative determination of critical circumstances, any suspension of liquidation shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the later of (a) the date which is 90 days before the date on which the suspension of liquidation was first ordered, or (b) the date on which notice of initiation of the investigation was published. We preliminarily found that critical circumstances exist for imports produced or exported by BOSTD Geosynthetics Qingdao Ltd. and the all other companies. Therefore, in accordance with section 703(e)(2)(A) of the Act, suspension of liquidation of geogrids from the PRC, as described in the "Scope of the Investigation" section, shall apply to unliquidated entries of merchandise entered, or withdrawn from warehouse, for consumption on or after the date which is 90 days before the publication of this notice, the date suspension of liquidation is first ordered. Because we preliminarily found critical circumstances do not exist for Taian Modern Plastic Co., Ltd., we will begin suspension of liquidation for such firms on the date of publication of this notice in the **Federal Register**. Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit equal to the amounts indicated above.

In accordance with sections 703(d) and 705(c)(5)(A) of the Act, for companies not investigated, we apply an "all-others" rate, which is normally calculated by weighting the subsidy rates of the individual companies selected as mandatory respondents by those companies' exports of the subject merchandise to the United States. Under section 705(c)(5)(i) of the Act, the all-others rate should exclude zero and *de minimis* rates calculated for the exporters and producers individually investigated as well as rates based entirely on facts otherwise available. Notwithstanding the language of section 705(c)(5)(A)(i) of the Act, we have not calculated the "all-others" rate by weighted averaging the rates of the two individually investigated respondents, because doing so risks disclosure of proprietary information. Therefore, for the "all-others" rate, we calculated a simple average of the two responding firms' rates.

Disclosure and Public Comment

The Department will disclose calculations performed for this preliminary determination to the parties within five days of the date of public announcement of this determination in accordance with 19 CFR 351.224(b). Case briefs or other written comments for all non-scope issues may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding, and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[4] A table of contents, list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.[5] Requests should contain the party's name, address, and telephone number; the number of participants; and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, at a date, time and location to be determined. Parties will be notified of the date, time and location of any hearing.

International Trade Commission Notification

In accordance with section 703(f) of the Act, we will notify the International Trade Commission ("ITC") of our determination. In addition, we are making available to the ITC all non-privileged and non-proprietary information relating to this investigation. We will allow the ITC access to all privileged and business proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Assistant Secretary for Enforcement and Compliance.

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[4] *See* 19 CFR 351.309; *see also* 19 CFR 351.303 (for general filing requirements).

[5] *See* 19 CFR 351.310(c).

In accordance with section 705(b)(2) of the Act, if our final determination is affirmative, the ITC will make its final determination within 45 days after the Department makes its final determination.

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: June 17, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memo

I. Summary
II. Background
III. Scope Comments
IV. Scope of the Investigation
V. Alignment
VI. Respondent Selection
VII. Preliminary Determination of Critical Circumstances
VIII. Injury Test
IX. Application of Countervailing Duty Law to Imports from the PRC
X. Subsidies Valuation
XI. Benchmarks and Interest Rates
XII. Use of Facts Otherwise Available and Adverse Inferences
XIII. Analysis of Programs
XIV. Verification
XV. Conclusion

Appendix II

The merchandise covered by the investigation is certain biaxial integral geogrid products. Biaxial integral geogrid products are a polymer grid or mesh material (whether or not finished, slit, cut-to-length, attached to woven or non-woven fabric or sheet material, or packaged) in which four-sided openings in the form of squares, rectangles, rhomboids, diamonds, or other four-sided figures predominate. The products covered have integral strands that have been stretched to induce molecular orientation into the material (as evidenced by the strands being thinner toward the middle between the junctions than at the junctions themselves) constituting the sides of the openings and integral junctions where the strands intersect. The scope includes products in which four-sided figures predominate whether or not they also contain additional strands intersecting the four-sided figures and whether or not the inside corners of the four-sided figures are rounded off or not sharp angles. As used herein, the term "integral" refers to strands and junctions that are homogenous with each other. The products covered have a tensile strength of greater than 5 kilonewtons per meter ("kN/m") according to American Society for Testing and Materials ("ASTM") Standard Test Method D6637/D6637M in any direction and average overall flexural stiffness of more than 100,000 milligram-centimeter according to the ASTM D7748/D7748M Standard Test Method for Flexural Rigidity of Geogrids, Geotextiles and Related Products, or other equivalent test method standards.

Subject merchandise includes material matching the above description that has been finished, packaged, or otherwise further processed in a third country, including by trimming, slitting, coating, cutting, punching holes, stretching, attaching to woven or non-woven fabric or sheet material, or any other finishing, packaging, or other further processing that would not otherwise remove the merchandise from the scope of the investigation if performed in the country of manufacture of the biaxial integral geogrid.

The products subject to the scope are currently classified in the Harmonized Tariff Schedule of the United States ("HTSUS") under the following subheading: 3926.90.9995. Subject merchandise may also enter under subheadings 3920.20.0050 and 3925.90.0000. The HTSUS subheadings set forth above are provided for convenience and U.S. Customs purposes only. The written description of the scope is dispositive.

[FR Doc. 2016–15007 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Malaysia. The period of review (POR) is August 1, 2014, through July 31, 2015. The review covers one producer/exporter of the subject merchandise, Euro SME Sdn Bhd (Euro SME). We preliminarily find that Euro SME has sold subject merchandise at less than normal value during the POR. Interested parties are invited to comment on these preliminary results.

DATES: *Effective Date:* June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Bryan Hansen or Minoo Hatten, AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3683 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Scope of the Order

The merchandise subject to the order is PRCBs. The product is currently classified under the Harmonized Tariff Schedules of the United States (HTSUS) item number 3923.21.0085. While the HTSUS subheading is provided for convenience and customs purposes, the written description is dispositive. A full description of the scope of the order is contained in the Preliminary Decision Memorandum.[1]

Bona Fides Analysis

We have analyzed the information provided by Euro SME in this POR to determine whether the company's sale under review was made in a *bona fide* manner and, as such, should be reviewed under the administrative review provisions of the regulations. *See* section 751(a)(2)(B) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.213. Where a review is based on a single sale, exclusion of that sale as non-*bona fide* necessarily must end the review.[2] Accordingly, as discussed in Euro SME's *Bona Fides* Memorandum, we preliminarily find Euro SME's sale to be *bona fide* and determine to continue conducting this administrative review.[3]

Methodology

The Department conducted this review in accordance with section 751(a)(2) of the Tariff Act of 1930, as amended (the Act). Export price is calculated in accordance with section

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[1] *See* memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, "Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Malaysia" dated concurrently with this notice (Preliminary Decision Memorandum), which is hereby adopted by this notice.

[2] *See Tianjin Tiancheng Pharm. Co., Ltd.* v. *United States,* 366 F. Supp. 2d 1249 (CIT 2005) (*Tianjin Tiancheng*) (quoting *Certain Preserved Mushrooms From the People's Republic of China: Final Results and Partial Rescission of the New Shipper Review and Final Results and Partial Rescission of the Third Antidumping Duty Administrative Review,* 68 FR 41304 (July 11, 2003) and accompanying Issues and Decision Memorandum at Comment 2).

[3] *See* Memorandum to The File entitled "2014–2015 Administrative Review of Polyethylene Retail Carrier Bags from Malaysia—Preliminary *Bona Fides* Sales Analysis of Euro SME Sdn Bhd," dated concurrently with this notice, for more details including certain business proprietary information.

772 of the Act. Normal value is calculated in accordance with section 773 of the Act. For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is made available to the public *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *https://access.trade.gov*, and is available to all parties in the Central Records Unit, room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html*. A list of the topics discussed in the Preliminary Decision Memorandum is attached as an Appendix to this notice.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that a weighted-average dumping margin of 11.53 percent exists for Euro SME for the period August 1, 2014, through July 31, 2015.

Disclosure and Public Comment

We intend to disclose the calculations performed to parties in this proceeding within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Pursuant to 19 CFR 351.309(c), interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than five days after the date for filing case briefs.[4] Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[5]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.[6] Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case briefs.

The Department intends to issue the final results of this administrative review, including the results of its analysis of the issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon completion of the administrative review, the Department shall determine and CBP shall assess antidumping duties on all appropriate entries. If Euro SME's weighted-average dumping margin continues to be above *de minimis* in the final results of this review, we will calculate an importer-specific assessment rate on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales and the total entered value of the sales in accordance with 19 CFR 351.212(b)(1). If Euro SME's weighted-average dumping margin is zero or *de minimis* in the final results of review, we will instruct CBP not to assess duties on any of its entries in accordance with the *Final Modification for Reviews, i.e.,* "{w}here the weighted-average margin of dumping for the exporter is determined to be zero or *de minimis,* no antidumping duties will be assessed."[7]

For entries of subject merchandise during the POR produced by Euro SME for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

We intend to issue instructions to CBP 15 days after publication of the final results of this review.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of PRCBs from Malaysia entered, or withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for Euro SME will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the manufacturer of the merchandise for the most recently completed segment of this proceeding; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 84.94percent.[8] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

We are issuing and publishing these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: June 20, 2016.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

A. Summary
B. Background
C. Scope of the Order
D. *Bona Fide* Analysis
E. Comparisons to Normal Value
  1. Determination of Comparison Method
  2. Results of the Differential Pricing Analysis
F. Product Comparisons
G. Date of Sale
H. Export Price
I. Normal Value
  1. Home Market Viability as Comparison Market
  2. Level of Trade
  3. Cost of Production

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[4] *See* 19 CFR 351.309(d).

[5] *Id.*, and 19 CFR 351.303 (for general filing requirements).

[6] *See* 19 CFR 351.310(c).

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification*, 77 FR 8101, 8102 (February 14, 2012).

[8] The all-others rate established in the *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia,* 69 FR 34128 (June 18, 2004).

4. Calculation of Normal Value Based on Comparison Market Prices
J. Currency Conversion
K. Recommendation

[FR Doc. 2016–15011 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE684

Endangered Species; File No. 20197

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 025433–3149 [Responsible Party: Dr. William Karp] has applied in due form for a permit to take loggerhead (*Caretta caretta*), green (*Chelonia mydas*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), and unidentified hardshell sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before July 25, 2016.

ADDRESSES: The application and related documents are available for review by selecting "Records Open for Public Comment" from the "Features" box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20197 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Arturo Herrera or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a five-year permit to sample sea turtles incidentally caught during commercial fishing operations by Northeast Fisheries Science Center (NEFSC) certified observers. The purpose of this project is to monitor the take of sea turtle species in observed commercial fisheries and collect data to estimate total bycatch Observers would be authorized to measure, flipper tag, tissue sample, photograph, and video live sea turtles and to salvage carcasses and parts from dead sea turtles.

Up to 50 loggerhead, 10 Kemp's ridley, 10 green, 20 leatherback, and 20 unidentified sea turtles would be sampled annually.

Dated: June 21, 2016.

Jolie Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2016–14989 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Economic Impacts of Diving and Snorkeling Expenditures in Southern Florida.

OMB Control Number: 0648–xxxx.

Form Number(s): None.

Type of Request: Regular (request for a new information collection).

Number of Respondents: 2,000.

Average Hours per Response: 10 minutes.

Burden Hours: 333.

Needs and Uses: This request is for a new collection of information.

The objective of the survey will be to understand divers' and snorkelers' expenditures associated with recreational coral reef diving activities in South Florida. The survey will also collect information on divers' attitudes, preferences, and concerns about recreational diving and coral reefs health in South Florida. We are conducting this survey to improve our understanding of divers' expenditure patterns and to estimate the economic impact of coral reef related spending. Results of the survey will be used to inform coastal resource management planning and establish a baseline for outreach and education. The expenditure survey is also expected to provide useful information for local economic and business interests.

Affected Public: Individuals or households.

Frequency: One time.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: June 21, 2016.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2016–14986 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE656

Availability of the Draft Report to Congress: Section 404 Fisheries Research

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability; request for comments.

SUMMARY: NMFS is releasing the draft Report to Congress on Fisheries Research in accordance with section 404 of the Magnuson-Stevens Fishery Conservation and Management Act (MSA) for public review and comment. Additional information, including the draft Report for download, may be found at: *http://www.st.nmfs.noaa.gov/strategic-plan/MSA-Section-404-Report-2016/msa-section-404-report-to-congress-2016.*

DATES: NMFS must receive comments on the draft Report by July 25, 2016.

ADDRESSES: You may submit comments on this document, identified NOAA–NMFS–2016–0064, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0064.* Click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Mark Chandler, NMFS, Fisheries Biologist, 1315 East-West Highway, Silver Spring, MD 20910. Include on the envelope the following identifier, "Section 404 Report Public Comment."

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publically accessible. NMFS will accept anonymous comments (enter "N/A" in the required field if you wish to remain anonymous). Attachments to electronic comments will be accepted on Microsoft Word, Excel, or Adobe PDF file formats only. Please include the page number and line number in your comments.

FOR FURTHER INFORMATION CONTACT: Mark Chandler, 301–427–8114.

SUPPLEMENTARY INFORMATION:

Section 404 of the MSA requires the Secretary of Commerce to publish, in the **Federal Register**, a strategic plan for fisheries research for the five years immediately following its previous publication in the **Federal Register**. The MSA requires that the plan address four major areas of research: (1) Research to support fishery conservation and management; (2) conservation engineering research; (3) research on the fisheries; and (4) information management research. The MSA specifies that this plan shall contain a limited number of priority objectives for each of these research areas; indicate goals and timetables; provide a role for commercial fishermen in such research; provide for the collection and dissemination of complete and accurate information concerning fishing activities; and be developed in cooperation with the Regional Fishery Management Councils and affected states. This draft Report on Fisheries Research is consistent with the requirements of section 404 and with NOAA's Next Generation Strategic Plan located on the web at *http://www.ppi.noaa.gov/wp-content/uploads/NOAA_NGSP.pdf.*

NMFS currently conducts a comprehensive program of fisheries research and involves industry and others interested in fisheries planning and implementing its objectives. The scope of the present draft document focuses only on the four major areas of research specified in section 404 of the MSA. It does not include the regulatory and enforcement components of the NMFS mission.

Authority: 16 U.S.C. 1881.

Dated: June 20, 2016.

Ned Cyr,

Director, Office of Science and Technology, National Marine Fisheries Service.

[FR Doc. 2016–15026 Filed 6–23–16; 8:45 am]

BILLING CODE 3510–22–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Addition

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Addition to the Procurement List.

SUMMARY: This action adds a service to the Procurement List that will be furnished by a nonprofit agency employing persons who are blind or have other severe disabilities.

DATES: Effective date July 24, 2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION:

Addition

On 5/30/2016 (81 FR 31917–31918), the Committee for Purchase From People Who Are Blind or Severely Disabled published notice of proposed addition to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the service and impact of the addition on the current or most recent contractors, the Committee has determined that the service listed below is suitable for procurement by the Federal Government under 41 U.S.C. 8501–8506 and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organization that will furnish the service to the Government.

2. The action will result in authorizing a small entity to furnish the service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 8501–8506) in connection with the service proposed for addition to the Procurement List.

End of Certification

Accordingly, the following service is added to the Procurement List:

Service

Service Type:
Base Supply Center
Mandatory for:
USPFO, Camp Mabry, 2200 West 35th Street, Austin, TX
Mandatory Source(s) of Supply:
Industries for the Blind, Inc., West Allis, WI
Contracting Activity:
DEPT OF THE ARMY, W7N2 USPFO ACTIVITY TX ARNG, Austin, TX

Barry S. Lineback,

Director, Business Operations.

[FR Doc. 2016–14963 Filed 6–23–16; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add products and a service to the Procurement List that will be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes products previously furnished by such agencies.

DATES: Comments must be received on or before July 24, 2016.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 715, Arlington, Virginia 22202–4149.

FOR FURTHER INFORMATION CONTACT: Barry S. Lineback, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice will be required to procure the products and service listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

The following products and service are proposed for addition to the Procurement List for production by the nonprofit agencies listed:

Products

NSN(s)—Product Name(s):
MR 10731—Garden Colander, Includes Shipper 20731
Mandatory Purchase For:
The requirements of military commissaries and exchanges in accordance with the Code of Federal Regulations, Chapter 51, 51–6.4
Mandatory Source(s) of Supply:
Winston-Salem Industries for the Blind, Inc., Wilson-Salem, NC
Contracting Activity:
Defense Commissary Agency
Distribution:
C-List

NSN(s)—Product Name(s):
7220–00–NSH–0022—Mat, Floor, Chair, 45″ x 53″ x .110″, w/20″ x 12″ Lip
7220–00–NSH–0023—Mat, Floor, Chair, 45″ x 53″ x .110″, w/25″ x 12″ Lip
7220–00–NSH–0024—Mat, Floor, Chair, 46″ x 60″ x .110″, w/25″ x 12″ Lip
7220–00–NSH–0025—Mat, Floor, Chair, 46″ x 60″ x .110″, Without Lip
7220–00–NSH–0026—Mat, Floor, Chair, 60″ x 60″ x .110″, Without Lip
7220–00–NSH–0030—Mat, Floor, Chair, 36″ x 48″ x .150″, w/20″ x 12″ Lip
7220–00–NSH–0031—Mat, Floor, Chair, 45″ x 53″ x .150″, w/25″ x 12″ Lip
7220–00–NSH–0032—Mat, Floor, Chair, 45″ x 53″ x .150″, w/20″ x 12″ Lip
7220–00–NSH–0033—Mat, Floor, Chair, 45″ x 53″ x .220″, w/20″ x 12″ Lip
7220–00–NSH–0035—Mat, Floor, Chair, 46″ x 60″ x .150″, Without Lip
7220–00–NSH–0036—Mat, Floor, Chair, 46″ x 60″ x .150″, w/25″ x 12″ Lip
7220–00–NSH–0038—Mat, Floor, Chair, 46″ x 60″ x .220″, w/25″ x 12″ Lip
7220–00–NSH–0039—Mat, Floor, Chair, 46″ x 60″ x .220″, Without Lip
7220–00–NSH–0040—Mat, Floor, Chair, 60″ x 60″ x .150″, Without Lip
Mandatory Purchase For:
Total Government Requirement
Mandatory Source(s) of Supply:
Northeastern Michigan Rehabilitation and Opportunity Center (NEMROC), Alpena, MI
Contracting Activity:
General Services Administration, Fort Worth, TX
Distribution:
A-List

Service

Service Type:
Janitorial Service
Mandatory for:
US Forest Service, Northern California Service Center, 6101 Airport Road, Redding, CA
Mandatory Source(s) of Supply:
Shasta County Opportunity Center, Redding, CA
Contracting Activity:
FOREST SERVICE, PACIFIC SOUTHWEST REGION, San Francisco, CA

Deletions

The following products are proposed for deletion from the Procurement List:

Products

NSN(s)—Product Name(s):
8415–01–579–9752—Multi-Cam Coat
8415–01–579–9622—Multi-Cam Coat
8415–01–579–9621—Multi-Cam Coat
8415–01–579–9747—Multi-Cam Coat
8415–01–579–9749—Multi-Cam Coat
8415–01–579–9745—Multi-Cam Coat
8415–01–579–9753—Multi-Cam Coat
8415–01–579–9756—Multi-Cam Coat
8415–01–579–9759—Multi-Cam Coat
8415–01–579–9762—Multi-Cam Coat
8415–01–579–9616—Multi-Cam Coat
8415–01–579–9773—Multi-Cam Coat
8415–01–579–9776—Multi-Cam Coat
8415–01–579–9781—Multi-Cam Coat
8415–01–580–0068—Multi-Cam Coat
8415–01–580–0075—Multi-Cam Coat
8415–01–579–9850—Multi-Cam Coat
8415–01–580–0077—Multi-Cam Coat
8415–01–579–9852—Multi-Cam Coat
8415–01–579–9864—Multi-Cam Coat
8415–01–579–9840—Multi-Cam Coat
8415–01–579–9843—Multi-Cam Coat
8415–01–579–9847—Multi-Cam Coat
8415–01–579–9827—Multi-Cam Coat
8415–01–579–9830—Multi-Cam Coat
8415–01–579–9833—Multi-Cam Coat
8415–01–579–9836—Multi-Cam Coat
8415–01–579–9801—Multi-Cam Coat
8415–01–579–9806—Multi-Cam Coat
8415–01–579–9811—Multi-Cam Coat
8415–01–579–9814—Multi-Cam Coat
8415–01–579–9782—Multi-Cam Coat
8415–01–579–9784—Multi-Cam Coat
8415–01–579–9823—Multi-Cam Coat
8415–01–579–9789—Multi-Cam Coat
8415–01–579–9794—Multi-Cam Coat
8415–01–579–9795—Multi-Cam Coat
Mandatory Source(s) of Supply:
STEPS, Inc., Farmville, VA
Contracting Activity:
W6QK ACC–APG NATICK, NATICK, MA
NSN(s)—Product Name(s):
8920–01–E62–3504—Cake Mix, Gingerbread; 6—4 lb cans
8920–01–E62–3503—Cake Mix, Gingerbread; 6—5 lb boxes
Mandatory Source(s) of Supply:
Transylvania Vocational Services, Inc., Brevard, NC
Contracting Activity:
Defense Logistics Agency Troop Support

Barry S. Lineback,
Director, Business Operations.

[FR Doc. 2016–14962 Filed 6–23–16; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0074]

Proposed Collection; Comment Request

AGENCY: Department of Defense (DoD) Chief Information Officer (CIO), DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Department of Defense Chief Information Officer announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 23, 2016.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate for Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal**

Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Office of the DoD Chief Information Officer 4800 Mark Center Drive, East Tower, Suite 11E08, Alexandria VA 22350–1900.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Information Assurance Scholarship Program; OMB Control Number 0704–0486.

Needs and Uses: The National Security Agency (NSA) is the Executive Administrator of the DoD Information Assurance Scholarship Program (IASP), serving on behalf of the DoD Chief Information Officer. Those who wish to participate in the DoD IASP Recruitment program must complete and submit an application package through their college or university to NSA. Centers of Academic Excellence in Cyber Defense (CAEs) interested in applying for capacity-building grants must complete and submit a written proposal, and all colleges and universities subsequently receiving grants must provide documentation on how the grant funding was utilized and the resulting accomplishments. Without this written documentation, the DoD has no means of judging the quality of applicants to the program or collecting information regarding program performance. In addition, the DoD IASP participants and their faculty advisors (Principal Investigators) are asked to complete annual program assessments. These assessments are collectively reviewed to evaluate the program's effectiveness from the perspective of the students and Principal Investigators. The assessment information is used to improve the program in subsequent years. The estimated burden is based on a typical funding profile for this scholarship program. The actual burden may be less, based on available funding.

Affected Public: Individuals or households; not-for-profit institutions.

Annual Burden Hours: 2,166.

Number of Respondents: 361.

Responses per Respondent: 2.

Annual Responses: 722.

Average Burden per Response: 3 hours.

Frequency: Annually.

Respondents to the scholarship information collection are applicants who provide academic records and professional experience summaries to the NSA for the IASP scholar selection process. Respondents to the grants information collection are Principal Investigators at colleges and universities designated as Centers of Academic Excellence (CAE) participating in the IASP who provide proposals for capacity building initiatives supporting the expansion of cyber-related degree programs at their CAE. The DoD IASP is designed to: Increase the number of new college graduate entrants to DoD who possess key cybersecurity skill sets; serve as a tool to develop and retain well-educated military and civilian personnel who support the Department's cyberspace mission including cutting edge research and development; and serve as a mechanism to build the nation's cyber infrastructure through grants to colleges and universities designated as CAEs by the NSA and the Department of Homeland Security. In addition, respondents to the annual program assessment survey provide feedback on the program, including suggestions for improvements and changes that can be incorporated to make the grants IASP information collection process stronger and more efficient.

Dated: June 20, 2016.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2016–14898 Filed 6–23–16; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0074]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; Preschool Development Grants—Preschool Pay for Success Feasibility Pilot

AGENCY: Office of Elementary and Secondary Education (OESE), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before July 25, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0074. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–343, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Miriam Lund, 202–401–2871.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Preschool Development Grants—Preschool Pay for Success Feasibility Pilot.

OMB Control Number: 1810–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 14.

Total Estimated Number of Annual Burden Hours: 2,800.

Abstract: Pay For Success (PFS) is an innovative contracting and financing model that tests and advances promising and proven interventions, while providing taxpayer (or other) dollars for successful outcomes for families, individuals, and communities. Through a PFS project, government (or another entity) enters into a contract with an investor to pay for services provided to specific people or communities once concrete, measurable outcomes have been achieved. Payments are made only if interventions achieve the outcomes agreed upon in advance. Where PFS financing is used, the government (or other entity) typically makes Outcomes Payments that cover the cost of services and also offer Investors a modest return, which typically amounts to a fraction of the short and long-term cost savings to the government (or other entity) from the successful outcomes.

The first step in exploring implementing preschool services through PFS is a Feasibility Study. A Feasibility Study establishes whether PFS is viable, for a specific intervention, in a specific jurisdiction and geographic area. It identifies potential Outcome Measures for the project and evaluates the feasibility of implementing or scaling a specific intervention for an identified Target Population. The study analyzes and quantifies the fiscal benefits for government and societal benefits that result if the Outcome Measures are achieved for the target population. It may also identify statutory and legal barriers, as well as potential partners for PFS. This information collection is an application package for a competition that seeks to award grants for Feasibility Studies to measure the viability of preschool pay for success projects.

Dated: June 20, 2016.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–14904 Filed 6–23–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2016–ICCD–0020]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Integrated Postsecondary Education Data System (IPEDS) 2016–2019

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 3501 *et seq.*), ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 25, 2016.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2016–ICCD–0020. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 2E–343, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Integrated Postsecondary Education Data System (IPEDS) 2016–2019.

OMB Control Number: 1850–0582.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 77,600.

Total Estimated Number of Annual Burden Hours: 999,060.

Abstract: The National Center for Education Statistics (NCES) seeks authorization from OMB to continue the Integrated Postsecondary Education Data System (IPEDS) data collection. Current authorization expires 12/31/2016 (OMB No. 1850–0582). We are requesting a new clearance for the 2016–17, 2017–18, and 2018–19 data collections to enable us to provide consistency in our collection of postsecondary data over the next 3 years. IPEDS is a web-based data collection system designed to collect basic data from all postsecondary institutions in the United States and the other jurisdictions. IPEDS enables NCES to report on key dimensions of postsecondary education such as enrollments, degrees and other awards earned, tuition and fees, average net price, student financial aid, graduation rates, student outcomes, revenues and expenditures, faculty salaries, and staff employed. The IPEDS web-based data collection system was implemented in 2000–01, and it collects basic data from approximately 7,500 postsecondary institutions in the United States and the other jurisdictions that are eligible to participate in Title IV Federal financial aid programs. All Title IV institutions are required to respond to IPEDS (Section 490 of the Higher Education Amendments of 1992 [Pub. L. 102–325]). IPEDS allows other (non-title IV) institutions to participate on a voluntary basis. About 200 elect to respond. IPEDS data are available to the public through the College Navigator and IPEDS Data Center Web sites. This clearance package includes a number of proposed changes to the data collection.

Dated: June 20, 2016.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2016–14937 Filed 6–23–16; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Office of Energy Efficiency and Renewable Energy

Proposed Agency Information Collection

AGENCY: Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy.

ACTION: Notice and request for OMB review and comment.

SUMMARY: The Department of Energy (DOE) has submitted to the Office of Management and Budget (OMB) for clearance a proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995. The proposed collection will gather opinions of experts in industry and other organizations regarding the impact on the development and diffusion of energy-efficient technologies and techniques in the construction of residential buildings of DOE/EERE Building Technologies Office (BTO) investments. Expert opinions are necessary to characterize expected patterns of technology development and diffusion in the absence of DOE investments, and so (by comparing these expectations with actual observations) estimate the difference DOE investments have made. This information is needed by DOE for budget justification and strategic planning. Respondents will include representatives of production builder companies (including companies that received DOE R&D funding and companies that received no direct funding from DOE).

DATES: Comments regarding this collection must be received on or before August 23, 2016. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, please advise the DOE Desk Officer at OMB of your intention to make a submission as soon as possible. The Desk Officer may be telephoned at 202–395–4718.

ADDRESSES: Written comments should be sent to the

DOE Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10102, 735 17th Street NW., Washington, DC 20503.

And to:

John Mayernik

By email to: *john.mayernik@ee.doe.gov.*

Or by mail to:

Building Technologies Office, EE–5B, Energy Efficiency and Renewable Energy, U.S. Department of Energy, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: John Mayernik, *john.mayernik@ee.doe.gov* or call 202–287–1754.

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. New; (2) Information Collection Request Title: Surveys/Interviews to Gather Expert Opinion on the Impact of DOE/EERE Building Technologies Office Investments have had on the Development and Diffusion of Energy-Efficient Technologies and Techniques in the Construction of Residential Buildings; (3) Type of Request: New collection.; (4) Purpose: The information collection will characterize expected patterns of technology development and diffusion in the absence of DOE investments, so that by comparing these expectations with actual observations the impacts of DOE investments can be estimated; this information is needed by DOE for budget justification and strategic planning. Respondents will include representatives of production builder companies (including companies that received DOE R&D funding and companies that received no direct funding from DOE); (5) Annual Estimated Number of Respondents: 104; (6) Annual Estimated Number of Total Responses: 104; (7) Annual Estimated Number of Burden Hours: 52; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: 0.

Statutory Authority: DOE Org Act (42 U.S.C. 7101, *et seq.*) and 42 U.S.C. 16191 (AMO authority).

Issued in Washington, DC, on June 17, 2016.

David Nemtzow,

Director, Building Technologies Office.

[FR Doc. 2016–14978 Filed 6–23–16; 8:45 am]

BILLING CODE –P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9948–23–Region 5]

EPA Great Lakes Advisory Board; Notice of Charter Renewal

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of charter renewal.

Notice is hereby given that the Environmental Protection Agency (EPA) has determined that, in accordance with the provisions of the Federal Advisory Committee Act (FACA), 5 U.S.C. App. 2, the EPA Great Lakes Advisory Board (GLAB) is a necessary committee which is in the public interest. Accordingly, GLAB will be renewed for an additional two-year period. The purpose of the GLAB is to provide advice to the Administrator in her capacity as Chair of the Inter-Agency Task Force established per Executive Order 13340 (May 18, 2004), on matters related to Great Lakes restoration and protection. The GLAB's major objectives are to provide advice and recommendations on: Great Lakes protection and restoration policy; long term goals and objectives for Great Lakes protection and restoration; annual priorities to protect and restore the Great Lakes that may be used to help inform budget decisions; and issues addressed by the Great Lakes Interagency Task Force. Inquiries may be directed to Rita Cestaric, U.S. Environmental Protection Agency, 77 W. Jackson, Chicago, IL 60604, Email address: *cestaric.rita@epa.gov,* Telephone number: (312) 886–6815.

Dated: May 3, 2016.

Cameron Davis,

Senior Advisor.

[FR Doc. 2016–15003 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–2097–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7146 or *http://www.epa.gov/nepa.*

Weekly receipt of Environmental Impact Statements (EISs).

Filed 06/13/2016 Through 06/17/2016.

Pursuant to 40 CFR 1506.9.

Notice

Section 309(a) of the Clean Air Act requires that EPA make public its comments on EISs issued by other Federal agencies. EPA's comment letters on EISs are available at: *https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.*

EIS No. 20160138, Draft, HUD, NY, Lambert Houses Redevelopment, Comment Period Ends: 08/08/2016, Contact: Aaron Werner, 212–863–5953, The City of New York—Department of Housing & Development is the lead agency for the above project.

EIS No. 20160139, Final, BLM, UT, Monument Butte Area Oil and Gas Development Project, Review Period Ends: 08/08/2016, Contact: Stephanie Howard 435–781–4469.

EIS No. 20160140, Final, AFS, MT, Flint Foothills Vegetation Management Project, Review Period Ends: 07/25/2016, Contact: Charlene Bucha Gentry 406–859–3211.

EIS No. 20160141, Final Supplement, USACE, FHWA, VA, US Route 460, Review Period Ends: 07/25/2016, Contact: Edward Sundra (804) 775–3357, The U.S. Department of Transportation's Federal Highway Administration and the U.S. Army Corps of Engineers are joint lead agencies for the above project.

EIS No. 20160142, Final, BLM, NV, Bald Mountain Mine North and South Operations Area Project, Review Period Ends: 07/25/2016, Contact: Stephanie Trujillo 775–289–1831.

Amended Notices

EIS No. 20160097, Draft, USFS, CO, Rico-West Dolores Roads and Trails Travel Management Project, Comment Period Ends: 07/15/2016, Contact: Deborah Kill, 970–882–6822.

Revision to FR Notice Published 05/06/2016; Extending Comment Period from 06/20/2016 to 07/15/2016.

Dated: June 21, 2016.

Dawn Roberts,

Management Analyst, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 2016–15008 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9931–90–OEI]

Cross-Media Electronic Reporting: Authorized Program Revision Approval, State of Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of the State of Michigan's request to revise/modify certain of its EPA-authorized programs to allow electronic reporting.

DATES: EPA's approval is effective June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Karen Seeh, U.S. Environmental Protection Agency, Office of Environmental Information, Mail Stop 2823T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, (202) 566–1175, *seeh.karen@epa.gov.*

SUPPLEMENTARY INFORMATION: On October 13, 2005, the final Cross-Media Electronic Reporting Rule (CROMERR) was published in the **Federal Register** (70 FR 59848) and codified as part 3 of title 40 of the CFR. CROMERR establishes electronic reporting as an acceptable regulatory alternative to paper reporting and establishes requirements to assure that electronic documents are as legally dependable as their paper counterparts. Subpart D of CROMERR requires that state, tribal or local government agencies that receive, or wish to begin receiving, electronic reports under their EPA-authorized programs must apply to EPA for a revision or modification of those programs and obtain EPA approval. Subpart D provides standards for such approvals based on consideration of the electronic document receiving systems that the state, tribe, or local government will use to implement the electronic reporting. Additionally, § 3.1000(b) through (e) of 40 CFR part 3, subpart D provides special procedures for program revisions and modifications to allow electronic reporting, to be used at the option of the state, tribe or local government in place of procedures available under existing program-specific authorization regulations. An application submitted under the subpart D procedures must show that the state, tribe or local government has sufficient legal authority to implement the electronic reporting components of the programs covered by the application and will use electronic document receiving systems that meet the applicable subpart D requirements.

On February 29, 2016, the Michigan Department of Environmental Quality (MDEQ) submitted an application titled "Michigan Air Emission Reporting System (MAERS)" for revisions/modifications to several of its EPA-approved air programs under title 40 CFR to allow electronic reporting. EPA reviewed MDEQ's request to revise/modify its EPA-authorized programs and, based on this review, EPA determined that the application met the standards for approval of authorized program revisions/modifications set out in 40 CFR part 3, subpart D. In accordance with 40 CFR 3.1000(d), this notice of EPA's decision to approve Michigan's request to revise/modify its following EPA-authorized programs to allow electronic reporting under 40 CFR parts 50–52, 60–61, 63, 65 and 70, is being published in the **Federal Register**:

Part 52—Approval and Promulgation of Implementation Plans;

Part 60—Standards of Performance for New Stationary Sources;

Part 63—National Emission Standards for Hazardous Air Pollutants for Source Categories; and

Part 70—State Operating Permit Programs.

MDEQ was notified of EPA's determination to approve its application with respect to the authorized programs listed above.

Matthew Leopard,

Director, Office of Information Collection.

[FR Doc. 2016–14954 Filed 6–23–16; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 12, 2016.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *Berkshire Hathaway Inc., and its subsidiary National Indemnity Company, together with National Fire & Marine Insurance Company, Columbia Insurance Company, National Liability & Fire Insurance Company, Cypress Insurance Company, National Indemnity Company of the South, Redwood Fire and Casualty Company, Government Employees Insurance Company, General Reinsurance Corporation, General Re Life Corporation, General Star Indemnity Company, Mount Vernon Fire Insurance Company, U.S. Underwriters Insurance Company, United States Liability Insurance Company, The Medical Protective Company, Berkshire Hathaway Assurance Corporation, Berkshire Hathaway Life Insurance Company of Nebraska, Berkshire Hathaway Homestate Insurance Company, First Berkshire Life Insurance Company, Princeton Insurance Company, National Indemnity Company of Mid America, Seaworthy Insurance Company, Unione Italiana Insurance Company, GEICO Advantage Insurance Company, GEICO Casualty Insurance Company, GEICO Choice Insurance Company, GEICO Indemnity Company, GEICO Secure Insurance Company, GEICO Corporation, General Re Corporation, Berkshire Hathaway Specialty Insurance Company, Central States Indemnity Co. of Omaha, Central States of Omaha Companies, Inc., AmGUARD Insurance Company, Atlanta International Insurance Company, California Insurance Company, Commercial Casualty Insurance Company, Continental Indemnity Company, Finial Reinsurance Company, EastGUARD Insurance Company, General Star National Insurance Company, Genesis Insurance Company, Oak River Insurance Company, NorGUARD Insurance Company, Old United Casualty Company, Radnor Specialty Insurance Company, Berkshire Hathaway Direct Insurance Company, WestGUARD Insurance Company, Brilliant National Services, Inc., U.S. Investment Corporation, BH Finance LLC, Precision Steel Warehouse Inc., The Fechheimer Brothers Company, Medical Protective Corporation, Boat America Corporation, Nebraska Furniture Mart, Inc., Benjamin Moore Pension Trust, The Buffalo News Office Pension Plan, The Buffalo News Editorial Pension Plan, The Buffalo News Mechanical Pension Plan, The Buffalo News Drivers/Distributors Pension Plan, Dexter Pension Plan, FlightSafety International Inc. Retirement Income Plan, Fruit of the Loom Pension Trust, GEICO Corporation Pension Plan Trust, Johns Manville Corporation Master Pension Trust, Justin Brands Inc. Union Pension Plan & Justin Brands Inc. Pension Plan & Trust, Acme Brick Company Pension Trust and Scott Fetzer Company Collective Investment Trust,* all in Omaha, Nebraska; *Warren Buffett,* Omaha, Nebraska; *Charles Munger,* Los Angeles, California; *and certain immediate family members of Warren Buffett and Charles Munger,* to retain and acquire additional voting shares of Wells Fargo & Company, San Francisco, California, and thereby indirectly acquire shares of Wells Fargo Bank, National Association, Sioux Falls, South Dakota; Wells Fargo Bank Northwest, National Association, Ogden, Utah; Wells Fargo Bank South Central, National Association, Houston, Texas; Wells Fargo Financial National Bank, Las Vegas, Nevada; and Wells Fargo Bank, Ltd., Los Angeles, California.

Board of Governors of the Federal Reserve System, June 21, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–15030 Filed 6–23–16; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 22, 2016.

A. Federal Reserve Bank of Atlanta (Chapelle Davis, Assistant Vice President), 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org*:

1. *Peach State Bancshares, Inc.,* to become a bank holding company by acquiring 100 percent of the voting stock of Peach State Bank & Trust, both in Gainesville, Georgia.

Board of Governors of the Federal Reserve System, June 21, 2016.

Michele Taylor Fennell,

Assistant Secretary of the Board.

[FR Doc. 2016–15031 Filed 6–23–16; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–1005; Docket No. CDC–2016–0055]

Proposed Data Collection Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the "Older Adult Safe Mobility Assessment Tool Impact Evaluation and Developing a Dissemination Plan" extension for the previously approved information collection designed to evaluate whether the Mobility Planning Tool is effective for promoting readiness to adopt mobility-protective behaviors in older adults.

DATES: Written comments must be received on or before August 23, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0055, by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov*. Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov*, including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov*.

Please note: *All public comment should be submitted through the Federal eRulemaking portal (Regulations.gov) or by U.S. mail to the address listed above.*

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Older Adult Safe Mobility Assessment Tool Impact Evaluation and Developing a Dissemination Plan (OMB Control No. 0920–1005, Exp. Date: 10–31–2016)—Extension—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's National Center for Injury Prevention and Control (NCIPC) requests approval for 2 years, from the Office of Management and Budget (OMB), for the extension of the previously information collection approved under OMB Control No. 0920–1005 (Exp. Date: 10–31–2016). This project is designed to evaluate whether the Mobility Planning Tool (MPT) is effective for promoting readiness to adopt mobility-protective behaviors in older adults and assess potential strategies for dissemination of the Mobility Planning Tool.

The population of older adults in the U.S. is growing rapidly. By 2030, this segment of the population will increase to an estimated 72 million (20% of the U.S. population). A critical public health issue for the older adult population is mobility—how well people are able to get to places they need to go. The goals of this study are to evaluate (1) whether the Mobility Planning Tool is effective for promoting readiness to adopt mobility-protective behaviors in older adults and (2) assess potential strategies for dissemination of the MPT.

Study data will be collected using telephone interviews. Prospective respondents will answer a series of screening questions. Individuals who meet the screening criteria and are willing to participate will complete a baseline and follow-up interview each lasting approximately 10 minutes. The study population is community-living older adults ages 60–74 with no known mobility limitations. A total of 1,000 individuals will participate in the study. Data will be analyzed using descriptive statistics and a series of t-tests, chi-square analyses, and Mann-Whitney U-tests. Multivariate analyses will include a series of repeated measures Analysis of Variance (ANOVA), and logistic regressions.

The data collected from this study will help CDC identify what further revisions to the MPT might be necessary before it is disseminated publicly. Selected study findings may eventually be presented in oral and poster presentations and published in a peer-reviewed journal. Without this information collection, CDC will not know whether the MPT is an effective tool for promoting readiness to adopt mobility-protective behaviors in older adults and will not know whether additional revisions to the tool are necessary before the MPT is disseminated publicly. Also, without this study CDC will have limited information about what strategies are most likely to be effective for disseminating the MPT publicly to the target audience. The total estimated annual burden hours are 733.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Individuals Responding to Initial Phone Call Who Refuse to be Screened.	Screening Interview Guide	2,500	1	1/60	42

ESTIMATED ANNUALIZED BURDEN HOURS—Continued

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
Individuals Responding to Initial Phone Call Responding to Screening Questions.	Screening Interview Guide	1,500	1	5/60	125
Study Participants	Baseline Interview Guide	1,000	1	10/60	166
Study Participants	MPT	500	1	30/60	250
Study Participants	Follow-up Interview Guide	900	1	10/60	150
Total					733

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–14957 Filed 6–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–16–16ARO; Docket No. CDC–2016–0056]

Proposed Data Collections Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on the proposed generic information collection entitled *CDC Fellowship Programs Assessments.* CDC is requesting Office of Management and Budget approval for a new generic clearance for data collection associated with quality improvement for the CDC fellowship programs that develop the current, emerging, and future public health workforce.

DATES: Written comments must be received on or before August 23, 2016.

ADDRESSES: You may submit comments, identified by Docket No. CDC–2016–0056, by any of the following methods:

- *Federal eRulemaking Portal: Regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. All relevant comments received will be posted without change to *Regulations.gov,* including any personal information provided. For access to the docket to read background documents or comments received, go to *Regulations.gov.*

Please note: All public comment should be submitted through the Federal eRulemaking portal (*Regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact the Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS–D74, Atlanta, Georgia 30329; phone: 404–639–7570; Email: *omb@cdc.gov.*

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

Proposed Project

Data Collection for CDC Fellowship Programs—New—Division of Scientific Education and Professional Development (DSEPD), Center for Surveillance, Epidemiology, and Laboratory Services (CSELS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC's mission is to protect America from health, safety, and security threats, both foreign and in the U.S. To ensure a competent, sustainable, and empowered public health workforce prepared to meet these challenges, CDC plays a key role in developing, implementing, and managing a number of fellowship programs. A *fellowship* is defined as a training or work experience lasting at least 1 month and consisting of primarily experiential (*i.e.,* on-the-job) learning, in which the trainee has a designated mentor or supervisor. CDC fellowships are intended to develop public health professionals, enhance the public health workforce, and strengthen collaborations with partners in public health and healthcare organizations, academia, and other stakeholders in governmental and non-governmental organizations. Assessing fellowship activities is essential to ensure that the public health workforce is equipped to promote and protect the public's health.

CDC requests a three-year approval of a generic clearance to collect data about its fellowship programs, as they relate to public health workforce development. Data collections will allow for ongoing, collaborative, and actionable communications between CDC fellowship programs and stakeholders (*e.g.,* fellows, supervisors/mentors, alumni). These collections might include short surveys, interviews, and focus groups. Intended use of the resulting information is to:

- Inform planning, implementation, and continuous quality improvement of fellowship activities and services;
- improve efficiencies in the delivery of fellowship activities and services; and
- determine to what extent fellowship activities and services are achieving established goals.

Collection and use of information about CDC fellowship activities will help ensure effective, efficient, and satisfying experiences among fellowship program participants and stakeholders.

CDC estimates that annually, a given fellowship program will conduct one query each with one of the three respondent groups: Fellowship applicants or fellows; mentors, supervisors, or employers; and alumni. The total annualized burden hours of 2,957 was determined as depicted in the following table.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Form name	Number of respondents	Total number of responses per respondent	Average burden per response (in hours)	Total burde (in hours)
Applicants or fellows	Fellowship Data Collection Instrument.	1,848	1	30/60	924
Mentors, supervisors, or employers	Fellowship Data Collection Instrument.	370	1	30/60	185
Alumni	Fellowship Data Collection Instrument.	3,696	1	30/60	1,848
Total					2,957

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2016–14956 Filed 6–23–16; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10458]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: the necessity and utility of the proposed information collection for the proper performance of the agency's functions; the accuracy of the estimated burden; ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 25, 2016.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR,* Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of the following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Consumer Research Supporting Outreach for Health Insurance Marketplace; *Use:* The Centers for Medicare and Medicaid Services is requesting reapproval for two surveys that aid in understanding levels of awareness and customer service needs associated with the Health Insurance Marketplace established by the Affordable Care Act. Because the Marketplace will provide coverage to the almost 50 million uninsured in the United States through individual and small employer programs, we have developed one survey to be administered to individual consumers most likely to use the Marketplace and another to be administered to small employers most likely to use the Small Business Health Options portion of the Marketplace. These brief surveys, designed to be conducted quarterly, give CMS the ability to obtain a rough indication of the types of outreach and marketing that will be needed to enhance awareness of and knowledge about the Marketplace for individual and business customers. CMS' biggest customer service need is likely to be providing sufficient education so consumers: (a) Can take advantage of the Marketplace and (b) know how to access CMS' customer service channels. The surveys will provide information on media use, concept awareness, and conceptual or content areas where education for customer service delivery can be improved. Awareness and knowledge gaps are likely to change over time based not only on effectiveness of CMS' marketing efforts, but also of those of state, local, private sector, and nongovernmental organizations. *Form Number:* CMS–10458 (OMB control number: 0938–1203); *Frequency:* Quarterly; *Affected Public:* Individuals or households, Private Sector (business or other for-profits); *Number of Respondents:* 40,200; *Total Annual Responses:* 40,200; *Total Annual Hours:* 2,480. (For policy questions regarding this collection contact Frank Funderburk at 410–786–1820.)

Dated: June 21, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–15021 Filed 6–23–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10455 and CMS–R–290]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by August 23, 2016.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number ________, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10455 Report of a Hospital Death Associated With Restraint or Seclusion

CMS–R–290 Medicare Program: Procedures for Making National Coverage Decisions

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Report of a Hospital Death Associated with Restraint or Seclusion; *Use:* Executive Order 13563, Improving Regulation and Regulatory Review, was signed on January 18, 2011. The order recognized the importance of a streamlined, effective, and efficient regulatory framework designed to promote economic growth, innovation, job creation, and competitiveness. Each agency was directed to establish an ongoing plan to reduce or eliminate burdensome, obsolete, or unnecessary regulations to create a more efficient and flexible structure.

The regulation that was published on May, 16, 2012 (77 FR 29034) included a reduction in the reporting requirement related to hospital deaths associated with the use of restraint or seclusion, § 482.13(g). Hospitals are no longer required to report to CMS those deaths where there was no use of seclusion and the only restraint was 2-point soft wrist restraints. It is estimated that this will reduce the volume of reports that must be submitted by 90 percent for hospitals. In addition, the final rule replaced the previous requirement for reporting via telephone to CMS, which proved to be cumbersome for both CMS and hospitals, with a requirement that allows submission of reports via telephone, facsimile or electronically, as determined by CMS. Finally, the amount of information that CMS needs for each death report in order for CMS to determine whether further on-site investigation is needed has been reduced.

The Child Health Act (CHA) of 2000 established in title V, part H, section 591 of the Public Health Service Act (PHSA) minimum requirements concerning the use of restraints and seclusion in facilities that receive support with funds appropriated to any Federal department or agency. In addition, the CHA enacted section 592 of the PHSA, which establishes minimum mandatory reporting requirements for deaths in such facilities associated with use of restraint or seclusion. Provisions implementing this statutory reporting requirement for hospitals participating in Medicare are found at 42 CFR 482.13(g), as revised in the final rule that published on May 16, 2012 (77 FR 29034). *Form Number:* CMS–10455 (OMB Control Number: 0938–1210); *Frequency:* Occasionally; *Affected Public:* Private Sector; *Number of Respondents:* 4,900. *Number of Responses:* 24,500. *Total Annual Hours:* 8,085. (For policy questions regarding this collection contact Karina Meushaw at 410–786–1000.)

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title:* Medicare Program: Procedures for Making National Coverage Decisions; *Use:* We revised our April 27, 1999 (64 FR 22619) notice and published a new notice on September 26, 2003 (68 FR 55634) that described the process we use to make Medicare coverage decisions including decisions regarding whether new technology and services can be covered. We have made changes to our internal procedures in response to the comments we received following publication of the 1999 notice and experience under our new process. Over the past several years, we received numerous suggestions to further revise our process to continue to make it more open, responsive, and understandable to the public. We share the goal of increasing public participation in the development of Medicare coverage issues. This will assist us in obtaining the information we require to make a national coverage determination in a timely manner and ensuring that the Medicare program continues to meet the needs of its beneficiaries. *Form Number:* CMS–R–290 (OMB control number: 0938–0776); *Frequency:* Annual; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 8,000. (For policy questions regarding this collection contact Katherine Tillman at 410–786–9252.)

Dated: June 21, 2016.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2016–15029 Filed 6–23–16; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Statement of Organizations, Functions, and Delegations of Authority

AGENCY: Office of Planning, Research and Evaluation, Administration for Children and Families, HHS.

ACTION: Notice.

SUMMARY: Statement of Organizations, Functions, and Delegations of Authority. The Administration for Children and Families (ACF) has reorganized the Office of Planning, Research and Evaluation (OPRE). This reorganization creates a new Division of Data and Improvement. It will transfer the state systems assessment function and the project management and oversight for Public Assistance Reporting Information System (PARIS) from the Office of Administration, Office of Financial Services, to the new Division of Data and Improvement.

FOR FURTHER INFORMATION CONTACT: Naomi Goldstein, Deputy Assistant Secretary for Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, 202–401–9220.

This notice amends Part K of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (HHS), Administration for Children and Families (ACF), as follows: Chapter KM, OPRE, as last amended 77 FR 47077–47078, August 7, 2012.

I. Under Chapter KM, OPRE, delete in its entirety and replace with the following:

KM.00 MISSION. OPRE is the principal advisor to the Assistant Secretary for Children and Families on improving the effectiveness and efficiency of programs designed to make measurable improvements in the economic and social well-being of children and families. OPRE provides guidance, analysis, technical assistance, and oversight to ACF programs and across programs in the agency on: Strategic planning aimed at measurable results; performance measurement and management; research and evaluation methodologies; demonstration testing and model development; statistical policy and program analysis; synthesis and dissemination of research, evaluation, and demonstration findings; data quality, usefulness, and sharing; privacy; and application of emerging technologies to improve the effectiveness of programs and service delivery.

OPRE, through the Division of Economic Independence, the Division of Child and Family Development, the Division of Family Strengthening, and the Division of Data and Improvement, oversees and manages the research and evaluation programs under sections 413, 429, 511, 1110, and 2008 of the Social Security Act and section 649 of the Head Start Act, as well as other research, evaluation, data, and improvement activities authorized by Congress and related to ACF programs and the populations they serve. These activities include: Priority setting and analysis; managing and coordinating major cross-cutting, leading-edge studies and special initiatives; and collaborating with federal partners, states, communities, foundations, professional organizations, and others to promote the safety, well-being, and development of children, families, and communities; parental responsibility; employment; and economic independence.

OPRE also provides coordination and leadership in implementing the Government Performance and Results Act Modernization Act and the Paperwork Reduction Act, and provides expert advice on matters related to privacy and the sharing of information. The office coordinates mandated OMB information collection approvals and plans and includes ACF's Reports Clearance Officer.

KM.10 Organization. OPRE is headed by a Deputy Assistant Secretary, who reports to the Assistant Secretary for Children and Families. The Office is organized as follows:

Office of the Deputy Assistant Secretary (KMA)
Division of Economic Independence (KMB)
Division of Child and Family Development (KMC)
Division of Family Strengthening (KMD)
Division of Data and Improvement (KME)

KM.20 FUNCTIONS. A. The Office of the Deputy Assistant Secretary provides direction and executive leadership to OPRE in administering its responsibilities. It serves as principal advisor to the Assistant Secretary for Children and Families on all matters pertaining to: improving the effectiveness and efficiency of ACF programs; strategic planning; performance measurement and management; research, evaluation, statistical, and analysis methods; program and policy evaluation; research and demonstrations; state and local innovations and progress; synthesis and dissemination of research and evaluation findings; data quality, usefulness, and sharing; and application of emerging technologies to improve the effectiveness of programs and service delivery. It represents the Assistant Secretary for Children and Families at various planning, research, evaluation, data, and improvement forums and carries out special Departmental and Administration initiatives.

The Office of the Deputy Assistant Secretary manages the formulation and execution of budgets for OPRE programs; manages correspondence; manages review of funding opportunity announcements within OPRE; coordinates the provision of staff development and training; provides support for OPRE's personnel administration, including staffing, employee and labor relations, performance management, and employee recognition; manages OPRE space, facilities, and supplies; and oversees travel, time and attendance, and other administrative functions for OPRE.

B. The Division of Economic Independence, in cooperation with ACF income support programs and others, works with federal counterparts, states, community agencies, and the private sector to understand and overcome barriers to economic independence; promote parental responsibility; and assist in improving the effectiveness of programs that further economic independence. The Division provides guidance, analysis, technical assistance, and oversight in ACF on: Strategic planning and performance measurement for economic independence; statistical, policy, and program analysis; surveys, research, and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to programs that promote employment, parental responsibility, and economic independence.

The Division develops policy-relevant research priorities; conducts, manages, and coordinates major cross-program, leading-edge research, demonstrations, and evaluation studies; manages and conducts statistical, policy, and program analyses on trends in employment, child support payments, and other income supports; and works in partnership with states, communities, and the private sector to promote employment, parental responsibility, and family economic independence. Division staff also provides consultation, coordination, direction, and support for research and evaluation activities related to employment, parental responsibility, and family economic independence across ACF programs.

C. The Division of Child and Family Development, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to: Improve the effectiveness and efficiency of programs, and foster safety and sound growth and development of children and their families. The Division provides guidance, analysis, technical assistance, and oversight in ACF on: strategic planning and performance measurement for child and family development; statistical, policy, and program analysis; surveys, research and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to improve the effectiveness of programs and service delivery. The Division conducts, manages, and coordinates major cross-programs, leading-edge research, demonstration and evaluation studies; develops policy-relevant research priorities; and manages and conducts statistical, policy, and program analyses related to children and families. Division staff also provides consultation, coordination, direction, and support for research and evaluation activities related to children and families across ACF programs.

D. The Division of Family Strengthening, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to: improve the effectiveness and efficiency of programs; foster the safety, positive growth and development of children, youth, parents, and vulnerable populations; and strengthen families.

The Division provides guidance, analysis, technical assistance and oversight in ACF on: Parent, child, youth and family development and dynamics; child safety; statistical, policy and program analysis; surveys, research and evaluation methodologies; demonstration testing and model development; synthesis and dissemination of research and evaluation findings; and application of emerging technologies to improve the effectiveness of programs and service delivery.

The Division conducts, manages, and coordinates major cross-program, leading-edge research, demonstration, and evaluation studies; develops policy-relevant research priorities; and manages and conducts statistical, policy, and program analyses related to strengthening families. Division staff also provides consultation, coordination, direction and support for research and evaluation activities related to strengthening families across ACF programs.

E. The Division of Data and Improvement, in cooperation with ACF programs and others, works with federal counterparts, states, community agencies, and the private sector to improve the effectiveness and efficiency of programs through improving the quality, usefulness, interoperability, and availability of data. Division staff provide guidance, analysis, technical assistance, and oversight on strategic planning and performance measurement; statistical, policy, and program analysis; continuous improvement; surveys, data collection, and analysis methodologies; application of data analyses to program operations and decision-making; application of emerging technologies to improve the effectiveness of programs and service delivery; privacy and data security; and data sharing. The Division conducts, manages, and coordinates major cross-program, leading-edge research, demonstration, and evaluation studies related to the quality, usefulness, interoperability, and availability of data; develops policy-relevant priorities for data collection and analysis; manages and conducts statistical, policy, and program analyses; provides consultation, coordination, direction, and support for research and evaluation activities related to the quality, usefulness, interoperability, and availability of data; coordinates and develops policies and procedures for reviewing Federal Financial Participation in the cost of automated systems development to support programs funded under the Social Security Act; coordinates and develops systems, policies, and procedures to support data exchange in support of program access and program integrity; coordinates and supports implementation of technologies, strategies, and policies related to systems integration and interoperability systems assessments, systems design and planning, data exchanges, information management, information security, and electronic information exchanges across federal, state, local, tribal, and private systems. It serves as the departmental focal point and coordinator for the development and implementation of strategies and policies related to payment integrity, welfare systems integration, electronic benefit transfer, and related initiatives and programs. The Division provides leadership and guidance to interagency work groups in these areas for the Department.

II. Under Chapter KP, Office of Administration, Delete Paragraph C, and replace as follows:

The Office of Financial Services (OFS) supports the Deputy Assistant Secretary for

Administration in fulfilling ACF's Chief Financial Officer (CFO) and Federal Manager's Financial (FMFIA) Management Control Officer responsibilities, including preparation of the CFO 5-Year Plan; performs audit oversight and liaison activities, including preparing reports to Congress, Office of the General Counsel, and the Office of the Inspector General. OFS writes/interprets financial policy and researches appropriation law issues; oversees and coordinates ACF's FMFIA activities; performs debt management functions; develops and administers quality assurance, training, and certification programs for grants management; and is responsible for the annual preparation and audit of ACF's financial statement requirements.

The Office develops/interprets internal policies and procedures for ACF components and coordinates the management of ACF's interagency agreement activities. The Office provides agency-wide guidance to program and regional office staff on grant-related issues, including developing and interpreting financial and grants policy, coordinating strategic grants planning, facilitating policy advisory groups, and assuring consistent grant program announcements. The Office prepares, coordinates, and disseminates action transmittals, information memoranda, and other policy guidance on financial and grants management issues; provides financial and grants administration technical assistance to ACF staff; directs and/or coordinates management initiatives to improve financial administration of ACF mandatory and discretionary grant programs. OFS develops and administers grants management training for ACF program and grants staff and administers grants management certification for ACF grants staff.

III. Continuation of Policy. Except as inconsistent with this reorganization, all statements of policy and interpretations with respect to organizational components affected by this notice within ACF, heretofore issued and in effect on this date of this reorganization are continued in full force and effect.

IV. Delegation of Authority. All delegations and redelegations of authority made to officials and employees of affected organizational components will continue in them or their successors pending further redelegations, provided they are consistent with this reorganization.

V. Funds, Personnel, and Equipment. Transfer of organizations and functions affected by this reorganization shall be accompanied in each instance by direct and support funds, positions, personnel, records, equipment, supplies, and other resources.

This reorganization will be effective upon date of signature.

Dated: June 20, 2016.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

[FR Doc. 2016–14981 Filed 6–23–16; 8:45 am]

BILLING CODE 4184–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects: Regional Partnership Grants To Increase the Well-Being of and To Improve Permanency Outcomes for Children Affected by Substance Abuse Cross-Site Evaluation and Evaluation-Related Technical Assistance and Evaluation-Related Technical Assistance and Data Collection Support for Regional Partnership Grant Program Round Three Sites

Title: RPG National Cross-Site Evaluation and Evaluation Technical Assistance

OMB No.: 0970–0444

Description: The Children's Bureau within the Administration for Children and Families of the U.S. Department of Health and Human Services seeks a renewal of clearance to collect information for the Regional Partnership Grants to Increase the Well-being of and to Improve Permanency Outcomes for Children Affected by Substance Abuse Cross-Site Evaluation and Evaluation-Related Technical Assistance and Evaluation-Related Technical Assistance and Data Collection Support for Regional Partnership Grant Program Round Three Sites or "RPG" projects. Under RPG, the Children's Bureau has issued 21 grants to organizations such as child welfare or substance abuse treatment providers or family court systems to develop interagency collaborations and integration of programs, activities, and services designed to increase well-being, improve permanency, and enhance the safety of children who are in an out-of-home placement or are at risk of being placed in out-of-home care as a result of a parent's or caretaker's substance use dependence. The Child and Family Services Improvement and Innovation Act (Pub. L. 112–34) includes a targeted grants program (section 437(f) of the Social Security Act) that directs the Secretary of Health and Human Services to reserve a specified portion of the appropriation for these Regional Partnership Grants, to be used to improve the well-being of children affected by substance abuse. The overall objective of the Cross-Site Evaluation and Technical Assistance projects (the RPG Cross-Site Evaluation) is to plan, develop, and implement a rigorous national cross-site evaluation of the RPG Grant Program, provide legislatively-mandated performance measurement, furnish evaluation-related technical assistance to the grantees in order to improve the quality and rigor of their local evaluations, and support their participation in the cross-site evaluation. The project will evaluate the programs and activities conducted through the RPG Program. The evaluation is being undertaken by the Children's Bureau and its contractor Mathematica Policy Research. The evaluation is being implemented by Mathematica Policy Research and its subcontractors, WRMA, Inc., and Synergy Enterprises.

The RPG Cross-Site Evaluation includes the following components:

1. *Implementation and Partnership Study.* The RPG cross-site implementation and partnership study will contribute to building the knowledge base about effective implementation strategies by examining the process of implementation in the 21 RPG projects, with a focus on factors shown in the research literature to be associated with quality implementation of evidence-based programs. This component of the study describes the RPG projects' target populations, selected interventions and their fit with the target populations, inputs to implementation, and actual services provided (including dosage, duration, content, adherence to curricula, and participant responsiveness). It examines the key attributes of the regional partnerships that grantees develop (for example, partnerships among child welfare and substance abuse treatment providers, social services, and family courts). It describes the characteristics and roles of the partner organizations, the extent of coordination and collaboration, and their potential to sustain the partnerships after the grant ends. Key data collection activities of the implementation and partnership study are: (1) Conducting site visits during which researchers interview RPG program directors, managers, supervisors, and frontline staff who work directly with families; (2) administering a survey to frontline staff involved in providing direct services to children, adults, and families; (3) asking grantees to provide information about implementation and their partnerships as part of their federally required semi-annual progress reports; (4) obtaining

service use data from grantees, enrollment date and demographics of enrollees, exit date and reason, and service participation, which are entered into a web-based system operated by Mathematica Policy Research and its subcontractors; and (5) administering a survey to representatives of the partner organizations.

2. *Outcomes Study.* The goal of the outcomes study is to describe the changes that occur in children and families who participate in the RPG programs. This study will describe participant outcomes in five domains: (1) Child well-being, (2) family functioning/stability, (3) adult recovery from substance use disorder, (4) child permanency, and (5) child safety. Two main types of outcome data will be used—both of which are being collected by RPG grantees: (1) Administrative child welfare and adult substance abuse treatment records and (2) standardized instruments administered to the parents and/or caregivers. The Children's Bureau is requiring grantees to obtain and report specified administrative records, and to use a prescribed set of standardized instruments. Grantees will provide these data to the cross-site evaluation team twice a year by uploading them to a data system operated by Mathematica Policy Research and its subcontractors.

3. *Impact Study.* The goal of the impact study is to assess the impact of the RPG interventions on child, adult, and family outcomes by comparing outcomes for people enrolled in RPG services to those in comparison groups, such as people who do not receive RPG services or receive only a subset of the services. The impact study will use demographic and outcome data on both program (treatment) and comparison groups from a subset of grantees with appropriate local evaluation designs such as randomized controlled trials or strong quasi-experimental designs; 5 of the 21 grantees have such designs. Site-specific impacts will be estimated for these five grantees. Aggregated impact estimates will be created by pooling impact estimates across appropriate sites to obtain a more powerful summary of the effectiveness of RPG interventions.

In addition to conducting local evaluations and participating in the RPG Cross-Site Evaluation, the RPG grantees are legislatively required to report performance indicators aligned with their proposed program strategies and activities. A key strategy of the RPG Cross-Site Evaluation is to minimize burden on the grantees by ensuring that the cross-site evaluation, which includes all grantees in a study that collects data to report on implementation, the partnerships, and participant characteristics and outcomes, fully meets the need for performance reporting. Thus, rather than collecting separate evaluation and performance indicator data, the grantees need only participate in the cross-site evaluation. In addition, using the standardized instruments that the Children's Bureau has specified will ensure that grantees have valid and reliable data on child and family outcomes for their local evaluations. The inclusion of an impact study conducted on a subset of grantees with rigorous designs will also provide the Children's Bureau, Congress, grantees, providers, and researchers with information about the effectiveness of RPG programs. This 60-Day Notice covers the following data collection activities: (1) The site visits with grantees; (2) the web-based survey of frontline staff who provide direct services to children, adults, and families, and their supervisors; (3) the semi-annual progress reports; (4) enrollment and service data provided by grantees; (5) the web-based survey of grantee partners; and (6) outcome data provided by grantees.

Respondents. Respondents include grantee staff or contractors (such as local evaluators) and partner staff. Specific types of respondents and the expected number per data collection effort are noted in the burden table below.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent each year	Average burden hours per response	Total annual burden hours
Program director individual interview	4	0.33	2	2.67
Program manager/supervisor group interview	36	0.33	2	24
Program manager/supervisor individual interviews	24	0.33	1	8
Frontline staff individual interviews	24	0.33	1	8
Semi-annual progress reports	21	2.67	16.5	924
Case enrollment data	63	30	0.25	472.5
Service log entries	126	780	0.05	4,914
Staff survey	80	0.33	0.42	11.2
Partner survey	80	0.33	0.33	8.8
Obtain access to administrative data	21	1	42.7	896.7
Report administrative data	21	2.67	144	8,064
Enter data into local database	21	2.67	112.5	6,300
Review records and submit electronically	21	2.67	100	5,600
Data entry for comparison study sites (5 grantees)	5	0.33	.25	361.6

Estimated Total Burden Hours: 27,595.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Children's Bureau within the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to Administration for Children and Families, Office of Planning, Research, and Evaluation, 330 C Street SW., Washington DC 20416, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–15010 Filed 6–23–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Request for Statements of Interest

AGENCY: Administration for Children and Families.

ACTION: Request for Statements of Interest for the National Advisory Committee on the Trafficking of Children and Youth in the United States.

SUMMARY: Pursuant to the Preventing Sex Trafficking and Strengthening Families Act of 2014, Public Law 113–183, notice is hereby given of an opportunity to submit a Statement of Interest for the National Advisory Committee on Trafficking of Children and Youth in the United States (Committee). The purpose of the Committee is to advise the Secretary and the Attorney General on practical and general policies concerning improvements to the Nation's response to the sex trafficking of children and youth in the United States. The Committee will be composed of not more than 21 members whose diverse experience and background enable them to provide balanced points of view with regard to carrying out the duties of the Committee.

DATES: Statements of Interest must be received by 5 p.m. EST, July 20, 2016.

FOR FURTHER INFORMATION CONTACT: Contact Kate Cooper, ACF Office on Trafficking in Persons, phone (202) 205–4554 or email *EndTrafficking@acf.hhs.gov.* Additional information and the Statement of Interest Form are available at *www.acf.hhs.gov/programs/endtrafficking/forms.*

SUPPLEMENTARY INFORMATION: On September 29, 2014, President Obama signed the Preventing Sex Trafficking and Strengthening Families Act (Pub. L. 113–183). The Act established a National Advisory Committee on the Sex Trafficking of Children and Youth in the United States to advise the Secretary and the Attorney General on practical and general policies concerning the cooperation of Federal, State, local, and tribal governments; child welfare agencies; social service providers; physical health and mental health providers; victim service providers; State or local courts with responsibility for conducting or supervising proceedings relating to child welfare or social services for children and their families; Federal, State, and local police; juvenile detention centers and runaway and homeless youth programs; schools; the gaming and entertainment industry; and businesses and organizations that provide services to youth, on responding to sex trafficking.

The Secretary shall appoint members of the Committee in consultation with the Attorney General and National Governors Association. At least one Committee member shall be a former sex trafficking victim and two Committee members shall be Governors of States. Each member of the Committee shall be appointed for the 5-year life of the Committee. The Committee will advise on the development and implementation of successful interventions with children and youth who are exposed to conditions that make them vulnerable to, or victims of, sex trafficking; and recommendations for administrative or legislative changes necessary to use programs, properties, or other resources owned, operated, or funded by the Federal Government to provide safe housing for children and youth who are sex trafficking victims.

The Committee shall develop two tiers of recommended best practices for States to follow in combating the sex trafficking of children and youth based on multidisciplinary research and promising, evidence-based models and programs, including sample training materials, protocols, and screening tools to identify victims of trafficking and those at risk for trafficking; multidisciplinary strategies to identify victims, manage cases, and improve services; sample protocols and recommendations for cross-system collaborations; criteria and guidelines for safe residential placements for foster children who have been sex trafficked; and training guidelines for caregivers serving children and youth outside the home.

The Committee will share best practices and recommendations with State Governors and child welfare agencies on a quarterly basis.

The Committee shall submit an interim report to the Secretary, Attorney General, and Congress within 3 years after the establishment of the Committee and a final report within 4 years after the establishment of the Committee.

The Committee shall convene at least twice a year. This is an unpaid position and Committee members will not be considered employees of the Federal Government other than reimbursement of travel expenses and a per diem allowance in accordance with Federal Government regulations.

Dated: June 17, 2016.

Mark H. Greenberg,

Assistant Secretary for Children and Families.

[FR Doc. 2016–14980 Filed 6–23–16; 8:45 am]

BILLING CODE 4184–47–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: TANF Quarterly Financial Report, ACF–196.

OMB No.: 0970–0247.

Description: This information collection is authorized under Section 411(a)(3) of the Social Security Act. This request is for renewal of approval to use the Administration for Children and Families' (ACF) 196 form for periodic financial reporting under the Temporary Assistance for Needy Families (TANF) program. States participating in the TANF program are required by statute to report financial data on a quarterly basis. This form meets the legal standard and provides essential data on the use of Federal funds. Failure to collect the data would seriously compromise ACF's ability to monitor program expenditures, estimate funding needs, and to prepare budget submissions required by Congress. Financial reporting under the TANF program is governed by 45 CFR part 265. This renewal restores columns for reporting Emergency Contingency Fund Grant expenditures.

Respondents: TANF Agencies.

ANNUAL BURDEN ESTIMATES

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–196	51	4	10	2,040

Estimated Total Annual Burden Hours: 2,040.

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chap 35) Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2016–14945 Filed 6–23–16; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than August 23, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Ryan White HIV/AIDS Program Outcomes within the Context of the Affordable Care Act, OMB No. 0906–xxxx—New.

Abstract: The Health Resources and Services Administration's HIV/AIDS Bureau (HRSA/HAB) implements the Ryan White HIV/AIDS Program (RWHAP). This program provides HIV-related services in the United States for those who do not have sufficient health care coverage or financial resources for coping with HIV disease. Enacted in 2010, the Affordable Care Act has had profound impacts on health care financing and delivery that are continuing to unfold. The expansion of health care coverage impacted many of RWHAP's traditional clients who are now eligible to receive health care coverage through Medicaid coverage and qualified health plans available on Health Insurance Marketplaces. These changes have required RWHAP sites to adapt in order to fill different gaps in care experienced by clients across the varying health care coverage options. The purpose of this evaluation study is to determine the effect that Affordable Care Act related health care coverage has had on overall health outcomes, service utilization, and gaps in care for people living with HIV. This evaluation seeks to understand how RWHAP provider sites meet the needs of clients under the variety of health care coverage options clients are encountering across the country.

Need and Proposed Use of the Information: The expansion of health care coverage now offers new options of obtaining health care services for many individuals with HIV. Due to these changes, additional information concerning overall client health outcomes, pharmaceutical and core medical processes and outcomes, and client access to and utilization of support services is needed. Data from this evaluation study will be used to provide HRSA/HAB with the necessary information to understand the changes in primary health care outcomes of RWHAP clients' pre- and post-implementation of the Affordable Care Act. This will inform how the RWHAP can best serve clients in the environment of the health care reform.

Likely Respondents: RWHAP administrators, RWHAP care providers, and RWHAP clients are the likely respondents.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing, and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Site Survey	305	1	305	0.5	152.5
Medical Records Sample Selection Guide	25	1	25	1	25
Site Interview Guide	50	1	50	2	100
Focus Groups Guide	60	1	60	1.5	90
Total	440		440		367.5

HRSA specifically requests comments on (1) the necessity and practical utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of Executive Secretariat.

[FR Doc. 2016–14951 Filed 6–23–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this Information Collection Request must be received no later than August 23, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Healthy Start Evaluation and Quality Improvement OMB No. 0915–0338—Revision.

Abstract: The National Healthy Start Program, funded through HRSA's Maternal and Child Health Bureau (MCHB), has the goal of reducing disparities in infant mortality and adverse perinatal outcomes. The program began as a demonstration project with 15 grantees in 1991 and has expanded over the past 2 decades to 100 grantees across 37 states and Washington, DC. Healthy Start grantees operate in communities with rates of infant mortality at least 1.5 times the U.S. national average and high rates for other adverse perinatal outcomes. These communities are geographically, racially, ethnically, and linguistically diverse low-income areas. Healthy Start covers services during the perinatal period (before, during, after pregnancy) and follows the woman and infant through 2 years after the end of the pregnancy. The Healthy Start program has five approaches, including: (1) Improving women's health; (2) promoting quality services; (3) strengthening family resilience; (4) achieving collective impact; and (5) increasing accountability through quality assurance, performance monitoring, and evaluation.

MCHB seeks to implement a uniform set of data elements for monitoring and conducting a mixed-methods evaluation to assess the effectiveness of the program on individual, organizational, and community-level outcomes. Data collection instruments will include a National Healthy Start Program Survey; Community Action Network Survey; Healthy Start Site Visit Protocol; Healthy Start Participant Focus Group Protocol—these instruments have not been changed. The Preconception, Pregnancy and Parenting (3Ps) Information Form will also be used as a data collection instrument; however the 3Ps Information form has been redesigned from one form into six forms. The six forms include: (1) Demographic Intake Form; (2) Pregnancy Status/History; (3) Preconception; (4) Prenatal; (5) Postpartum; and (6) Interconception/Parenting. The purpose of this redesign is to enhance the 3Ps Information Form to ensure collected data is meaningful for monitoring and evaluation, as well as screening and care coordination, and streamline previously separate data systems. The 3Ps Information Form was also redesigned to allow questions to be administered in accordance with the participant's enrollment/service delivery status and perinatal period. In addition to redesigning the 3Ps Information Form, HRSA deleted questions that are neither critical for evaluation nor programmatic purposes. HRSA also added questions to the 3Ps Information Form to allow the Form to be used as an all-inclusive data collection instrument for MCHB and Healthy Start grantees. The additional questions extend and refine previously approved content, allowing for the collection of more granular and/or in-depth information on existing topics. Adding these questions allows Healthy Start grantees to better assess risk, identify needed services, provide appropriate follow-up activities to program participants, and improve overall service delivery and quality.

Need and Proposed Use of the Information: The purpose of the data collection instruments is to obtain consistent information across all grantees about Healthy Start and its outcomes. The data will be used to: (1) Conduct ongoing performance monitoring of the program; (2) provide credible and rigorous evidence of program effect on outcomes; (3) assess the relative contribution of the five program approaches to individual and community-level outcomes; (4) meet program needs for accountability, programmatic decision-making, and ongoing quality assurance; and (5) strengthen the evidence-base, and identify best and promising practices for the program to support sustainability, replication, and dissemination of the program.

Likely Respondents: Respondents include project directors and staff for the National Healthy Start Program Survey; representatives from partner organizations for the Community Action Network Survey; program staff, providers, and partners for the Healthy Start Site Visit Protocol; and program participants for the Healthy Start Participant Focus Group Protocol. Respondents for the redesigned 3Ps Information Form (*i.e.,* (1) Demographic Intake; (2) Pregnancy Status/History; (3) Preconception; (4) Prenatal; (5) Postpartum; and (6) Interconception/Parenting) is pregnant women and women of reproductive age who are served by the Healthy Start program.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
3Ps Information Form:					
1. Demographic Intake Form	*40,675	1	40,675	0.25	10,169
2. Pregnancy Status/History	40,675	1	40,675	0.42	17,084
3. Preconception	*20,337	1	20,337	1.5	30,506
4. Prenatal	20,337	1	20,337	2.00	40,674
5. Postpartum	20,337	1	20,337	1.8	37,285
6. Interconception/Parenting	20,337	1	20,337	2.00	40,674
National Healthy Start Program Web Survey	88	1	88	2.00	176
CAN member Web Survey	225	1	225	0.75	169
Healthy Start Site Visit Protocol	15	1	15	6.00	90
Healthy Start Participant Focus Group Protocol	180	1	180	1.00	180
Total	61,520		61,520		177,007

* The same individuals (40,675) complete the Demographic Intake and Pregnancy Status/History forms, and a subset of these same individuals (20,337) also complete the Preconception, Prenatal, Postpartum, and Interconception/Parenting forms for total of 61,520 respondents and responses.

HRSA specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of Executive Secretariat.

[FR Doc. 2016–14958 Filed 6–23–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects (Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995), the Health Resources and Services Administration (HRSA) announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than August 23, 2016.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference.

Information Collection Request Title: Small Rural Hospital Transition Project (SRHT) OMB No. 0906–xxxx—New.

Abstract: Under Section 330A of the Public Health Service Act (42 U.S.C. 254c(e)), the Federal Office of Rural

Health Policy (FORHP) funds grant programs supporting expanding access to, coordinating, restraining the cost of, and improving the quality of essential health care services in rural and frontier communities. Small rural hospitals are facing many challenges in the new health care environment, including the concurrent need to better measure and account for quality of care in all settings; improve transitions of care as patients move from one care setting to another; the evolution of new payment approaches such as value-based purchasing; and, new approaches to care delivery such as accountable care organizations (ACO) and patient-centered medical homes. Success in this new environment will require bridging the gaps between the current system and the newly emerging system of healthcare delivery and payment. Because little is known about how these new models might impact rural communities, there is a need to help hospitals understand and consider those factors that would make them logical participants in health care systems that focus on value. The SRHT, also funded by Section 330A, will assist small rural hospitals facing these challenges. The purpose of the project is to provide on-site technical assistance to nine small rural hospitals residing in persistent poverty counties. Technical assistance will be provided in the areas of: (1) Financial assessments, (2) creating a quality-focused environment, (3) aligning services to community need, and, (4) to the extent that financial and quality core areas have been stabilized, provide assistance to help recipients of technical assistance consider factors that would make them logical participants in health care systems that focus on value (for example ACOs, shared savings programs, primary care medical homes).

Need and Proposed Use of the Information: SRHT includes a deliverable to design processes for developing, receiving, reviewing, and scoring hospital applications for participation in the SRHT project. The processes will ensure that the selection of applicants is consistent with established criteria and hospitals' readiness or ability to implement consultants' recommendations. Specifically, the application form will be designed to solicit information that will be scored and ranked to aid in the selection of nine small rural hospitals to receive on-site technical assistance.

Likely Respondents: Small rural hospitals located in a rural community, as defined by FORHP, persistent poverty county or a rural census tract of a metro persistent poverty county and have 49 staffed beds or less as reported on the hospital's most recently filed Medicare Cost Report. Hospitals may be for-profit or not-for-profit.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this ICR are summarized in the table below.

Total Estimated Annualized burden hours:

Form name	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
SRHT Online Application	30	38	1,140	.50	570
Assessment: Performance Excellence for Rural Hospitals	30	29	870	.25	217.5
Total	30*		2,010		787.5

* The same individuals complete the SRHT Online Application and the Assessment for a total of 30 respondents.

HRSA specifically requests comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–14952 Filed 6–23–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Commission on Childhood Vaccines; Request for Nominations for Voting Members

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is requesting nominations to fill vacancies on the Advisory Commission on Childhood Vaccines (ACCV). The ACCV was established by title XXI of the Public Health Service Act (the Act), as enacted by Public Law (Pub. L.) 99–660 and as subsequently amended, and advises the Secretary of Health and Human Services (the Secretary) on issues related to implementation of the National Vaccine Injury Compensation Program (VICP).

DATES: The agency will receive nominations on a continuous basis.

ADDRESSES: All nominations are to be submitted to the Director, Division of Injury Compensation Programs, Healthcare Systems Bureau (HSB), HRSA, 5600 Fishers Lane, Room 08N146B, Rockville, Maryland 20857. Nominations submitted electronically should be submitted to *AJohnson3@HRSA.gov* or *AHerzog@HRSA.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Annie Herzog, Principal Staff Liaison, Division of Injury Compensation Programs, HSB, HRSA, at (301) 443–6634 or email: *aherzog@hrsa.gov.*

SUPPLEMENTARY INFORMATION: Under the authorities that established the ACCV, the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463) and section 2119 of the Act, 42 U.S.C.

300aa–19, as added by Pub. L. 99–660 and amended, HRSA is requesting nominations for voting members of the ACCV.

The ACCV advises the Secretary on the implementation of the VICP. Other activities of the ACCV include: Recommending changes in the Vaccine Injury Table, at its own initiative or as the result of the filing of a petition; advising the Secretary in implementing section 2127 of the Act regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions; surveying federal, state, and local programs and activities related to gathering information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b) of the Act; advising the Secretary on the methods of obtaining, compiling, publishing, and using credible data related to the frequency and severity of adverse reactions associated with childhood vaccines; consulting on the development or revision of Vaccine Information Statements; and recommending to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the VICP.

The ACCV consists of nine voting members appointed by the Secretary as follows: (1) Three health professionals, who are not employees of the United States Government, and who have expertise in the health care of children, the epidemiology, etiology, and prevention of childhood diseases, and the adverse reactions associated with vaccines, of whom at least two shall be pediatricians; (2) three members from the general public, of whom at least two shall be legal representatives (parents or guardians) of children who have suffered a vaccine-related injury or death; and (3) three attorneys, of whom at least one shall be an attorney whose specialty includes representation of persons who have suffered a vaccine-related injury or death, and of whom one shall be an attorney whose specialty includes representation of vaccine manufacturers. In addition, the Director of the National Institutes of Health, the Assistant Secretary for Health, the Director of the Centers for Disease Control and Prevention, and the Commissioner of the Food and Drug Administration (or the designees of such officials) serve as nonvoting ex officio members.

The Department of Health and Human Services (HHS or Department) will consider nominations of all qualified individuals with a view to ensure that the ACCV includes the areas of subject matter expertise noted above. As indicated above, at least two of the three ACCV members of the general public must be legal representatives (parents or guardians) of children who have suffered a vaccine-related injury or death. Because those members must be the legal representatives of children who have suffered a vaccine-related injury or death, to be considered for appointment to the ACCV in that category there must have been a finding (*i.e.,* a decision) by the U.S. Court of Federal Claims or a civil court that a VICP-covered vaccine caused, or was presumed to have caused, the represented child's injury or death. Based on a recommendation made by the ACCV, the Secretary will consider having a health professional with expertise in obstetrics as one of the members of the general public.

ACCV members are appointed as Special Government Employees. As such, they are covered by the federal ethics rules, including the criminal conflict of interest statutes governing executive branch employees. For example, an ACCV member may be prohibited from discussions about making changes to the Vaccine Injury Table and Vaccine Information Statements for the Hepatitis B vaccine if he/she or his/her spouse owns stock valued above a certain amount in companies which manufacturer this vaccine, affecting their own pecuniary interests—including interests imputed to them. To evaluate possible conflicts of interest, potential candidates will be asked to fill out the Confidential Financial Disclosure Report, OGE Form 450, to provide detailed information concerning financial interests, consultancies, research grants, and/or contracts that might be affected by recommendations made by the ACCV.

Interested persons may nominate one or more qualified persons for membership on the ACCV. Nominations shall state that the nominee is willing to serve as a member of the ACCV. Nominees will be invited to serve a 3-year term beginning the date of appointment. A nomination package should be submitted as hard copy, email communication, or compact disk. A nomination package should include the following information for each nominee: (1) A letter of nomination stating the name, affiliation, and contact information for the nominee, the basis for the nomination (*i.e.,* what specific attributes, perspectives, and/or skills does the individual possess that would benefit the workings of the ACCV) and the nominee's field(s) of expertise; (2) a biographical sketch of the nominee and a copy of his/her curriculum vitae; and (3) the name, address, daytime telephone number, and email address at which the nominator can be contacted. Nomination packages will be collected and retained to create a pool of possible future ACCV voting members. When a vacancy occurs, nomination packages from the appropriate category will be reviewed and nominees may be contacted.

HHS strives to ensure that the membership of the HHS Federal Advisory Committee is fairly balanced in terms of points of view represented and the committee's function. Appointment to the ACCV shall be made without discrimination on basis of age, race, ethnicity, gender, sexual orientation, disability, and cultural, religious, or socioeconomic status. The Department encourages nominations of qualified candidates from all groups and locations.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2016–14960 Filed 6–23–16; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel HTLV.

Date: July 15, 2016.

Time: 11:30 a.m. to 3:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 3W032/034, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Kenneth L. Bielat, Ph.D., Scientific Review Officer, Research and Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W244, Rockville, MD 20892–9750, 240–276–6373, *bielatk@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Clinical R01 Review.

Date: July 20, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 2W914, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Majed M. Hamawy, Ph.D. Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W120, Rockville, MD 20892–9750, 240–276–6457, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; EDRN.

Date: July 21–22, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Peter J. Wirth, Ph.D., Scientific Review Officer, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W514, Rockville, MD 20892–9750, 240–276–6434, *pw2q@nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel; Utilizing the PLCO Biospecimens Resource to Bridge Gaps in Cancer Etiology and Early Detection Research (U01).

Date: July 28, 2016.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 2W030, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jeffrey E. DeClue, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W238, Rockville, MD 20892–9750, 240–276–6371, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group Subcommittee A—Cancer Centers.

Date: August 11, 2016.

Time: 8:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, North Bethesda, MD 20852.

Contact Person: Shamala K. Srinivas, Ph.D., Associate Director Office of Referral, Review, and Program Coordination, Division of Extramural Activities, National Cancer Institute, 9609 Medical Center Drive, Room 7W530, Rockville, MD 20892–9750, 240–276–6442, *ss537t@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: June 20, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14922 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Rapid Assessment of Zika Virus (ZIKV) Complications (R21).

Date: July 21–22, 2016.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Brenda L. Fredericksen, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room # 3G22A, National Institutes of Health/NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, (240) 669–5052, *brenda.fredericksen@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: June 20, 2016.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14921 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Dermatology, Rheumatology and Inflammation.

Date: July 12, 2016.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Yanming Bi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–451–0996, *ybi@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; AIDS Clinical Studies and Epidemiology Study Section.

Date: July 13, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Hilary D. Sigmon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5222, MSC 7852, Bethesda, MD 20892, (301) 357–9236, *sigmonh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; US-China Program for Collaborative Biomedical Research.

Date: July 20–21, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Marci Scidmore, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3192, MSC 7808, Bethesda, MD 20892, 301–435–1149, *marci.scidmore@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 15–192: Immune System Plasticity in Dental, Oral and Craniofacial Diseases.

Date: July 20, 2016.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Yi-Hsin Liu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4214, MSC 7814, Bethesda, MD 20892, 301–435–1781, *liuyh@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 17, 2016.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14920 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Use of 3D printing for Creation of Implantable Pediatric Devices for the Production of Medical Devices.

Date: July 11, 2016.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Sathasiva B. Kandasamy, Ph.D., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, 6710B Rockledge Drive, Room 2131D, Bethesda, MD 20892, (301) 435–6680, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14916 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Progenitor Cell Translational Consortium.

Date: July 13–14, 2016.

Time: July 13, 2016, 9:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Time: July 13, 2016, 3:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Time: July 14, 2016, 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0297, *goltrykl@mail.nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; Progenitor Cell Translational Consortium Coordinating Center.

Date: July 13, 2016.

Time: 2:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Kristin Goltry, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7198, Bethesda, MD 20892, 301–435–0297, *goltrykl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14917 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel; NHLBI Outstanding Investigator Award (OIA)—Blood.

Date: July 14, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Melissa Nagelin, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7202, Bethesda, MD 20892; 301–594–8518; *melissa.nagelin2@nih.gov.*

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel, NHLBI Outstanding Investigator Award (OIA)—Heart, Lung and Sleep.

Date: July 14, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Kristen Page, Ph.D., Scientific Review Officer, Office of Scientific Review/DERA, National Heart, Lung, and Blood Institute, 6701 Rockledge Drive, Room 7185, Bethesda, MD 20892; 301–496–2434; *kristen.page@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: June 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14918 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Second Stage P01 Review.

Date: August 4, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agency: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Ramesh Vemuri, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C–212, Bethesda, MD 20892, 301–402–7700, *rv23r@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: June 20, 2016.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14923 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: Technology description follows.

Murine Cell Models for Metastatic Squamous Cell Carcinoma Two cell lines isolated from Pam 212 cells (SCC): Pam LY (lymph node metastasis) and Pam LU (lung metastasis) from metastated in vivo growth in mouse. These stably established cell lines exhibited higher potential to metastasize to lymph nodes and lungs, respectively, in mouse models than their parental Pam 212 cells.

Potential Commercial Applications

- Drug discover for squamous cell carcinoma
- Drug discover for squamous cell carcinoma metastated to lung and lymph nodes

Inventors: Zhong Chen and Carter Van Waes (both of NIDCD).

Intellectual Property: HHS Reference No. E–213–2016/0—Research Material.

Licensing Contact: Michael Shmilovich, Esq, CLP; 301–435–5019; *shmilovm@mail.nih.gov.*

Dated: June 17, 2016.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2016–14914 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; Career Development Applications Review Meeting.

Date: July 11–12, 2016.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Key Stone Building, 530 Davis Drive, Research Triangle Park, NC 27709 (Virtual Meeting).

Contact Person: Leroy Worth, Ph.D., Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30/ Room 3171, Research Triangle Park, NC 27709 (919) 541–0670, *worth@niehs.nih.gov.*

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; NIEHS Bioinformatics Support.

Date: July 13–14, 2016.

Time: 6:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Garden Inn Durham Southpoint, 7007 Fayetteville Road, Durham, NC 27713.

Contact Person: Ms. Rose Anne M. McGee, Scientific Review Officer, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–0752, *mcgee1@niehs.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: June 20, 2016.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14919 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Eunice Kennedy Shriver National Institute of Child Health and Human Development Initial Review Group; Developmental Biology Subcommittee.

Date: July 19, 2016.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Cathy J. Wedeen, Ph.D., Scientific Review Officer, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, 6710B Rockledge Drive, Room 2121D, Bethesda, MD 20892; (301) 435–6878; *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: June 20, 2016.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2016–14915 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Diabetes Mellitus Interagency Coordinating Committee Meeting

SUMMARY: The Diabetes Mellitus Interagency Coordinating Committee (DMICC) will hold a meeting on July 6–7, 2016. The subject of the meeting will be the "Artificial Pancreas Workshop: Testing and Adoption of Current and Emerging Technologies." The meeting is open to the public.

DATES: The meeting will be held on July 6–7, 2016.

ADDRESSES: The meeting will be held in the NIH campus, 9000 Rockville Pike, Bethesda, MD 20892–2560, Lister Hill Auditorium, Building 38A. Pre-registration at *http://www.niddk.nih.gov/news/events-calendar/Pages/fourth-artificial-pancreas-workshop.aspx* is required.

FOR FURTHER INFORMATION CONTACT: For further information concerning this meeting, see the DMICC Web site, *www.diabetescommittee.gov,* or contact Dr. B. Tibor Roberts, Executive Secretary of the Diabetes Mellitus Interagency Coordinating Committee, National Institute of Diabetes and Digestive and Kidney Diseases, 31 Center Drive, Building 31A, Room 9A19, MSC 2560, Bethesda, MD 20892–2560, telephone: 301–496–6623; FAX: 301–480–6741; email: *dmicc@mail.nih.gov.*

SUPPLEMENTARY INFORMATION: The DMICC, chaired by the National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK) comprising members of the Department of Health and Human Services and other federal agencies that support diabetes-related activities, facilitates cooperation, communication, and collaboration on diabetes among government entities. DMICC meetings, held several times a year, provide an opportunity for Committee members to learn about and discuss current and future diabetes programs in DMICC member organizations and to identify opportunities for collaboration. The July 6–7, 2016 DMICC meeting will focus on testing and adoption of current and emerging artificial pancreas technologies.

Any member of the public interested in presenting oral comments to the Committee should notify the contact person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives or organizations should submit a letter of intent, a brief description of the organization represented, and a written copy of their oral presentation in advance of the meeting. Only one representative of an organization will be allowed to present; oral comments and presentations will be limited to a maximum of 5 minutes. Printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the Committee by forwarding their statement to the contact person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person. Because of time constraints for the meeting, oral comments will be allowed on a first-come, first-serve basis.

Members of the public who would like to receive email notification about future DMICC meetings should register for the listserv available on the DMICC Web site, *www.diabetescommittee.gov.*

Dated: June 17, 2016.

B. Tibor Roberts,

Executive Secretary, DMICC, Office of Scientific Program and Policy Analysis, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health.

[FR Doc. 2016–15016 Filed 6–23–16; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5907–N–26]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Juanita Perry, Department of Housing and Urban Development, 451 Seventh Street SW., Room 7266, Washington, DC

20410; telephone (202) 402–3970; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, and suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for "off-site use only" recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to: Ms. Theresa M. Ritta, Chief Real Property Branch, the Department of Health and Human Services, Room 5B–17, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–2265 (This is not a toll-free number). HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Ann Marie Oliva at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.,* acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: AGRICULTURE: Ms. Debra Kerr, Department of Agriculture, Reporters Building, 300 7th Street SW., Room 300, Washington, DC 20024, (202) 720–8873; AIR FORCE: Mr. Robert E. Moriarty, P.E., AFCEC/CI, 2261 Hughes Avenue, Ste. 155, JBSA Lackland TX 78236–9853; COAST GUARD: Commandant, United States Coast Guard, Attn: Jennifer Stomber, 2703 Martin Luther King Jr. Avenue SE., Stop 7741, Washington, DC 20593–7714; (202) 475–5609; GSA: Mr. Flavio Peres, General Services Administration, Office of Real Property Utilization and Disposal, 1800 F Street NW., Room 7040, Washington, DC 20405, (202) 501–0084; NAVY: Mr. Steve Matteo, Department of the Navy, Asset Management Division, Naval Facilities Engineering Command, Washington Navy Yard, 1330 Patterson Ave. SW., Suite 1000, Washington, DC 20374; (202) 685–9426 (These are not toll-free numbers).

Dated: June 16, 2016.

Brian P. Fitzmaurice,

Director, Division of Community Assistance, Office of Special Needs Assistance Programs.

TITLE V, FEDERAL SURPLUS PROPERTY PROGRAM FEDERAL REGISTER REPORT FOR 06/24/2016

Suitable/Available Properties

Building

Florida

River Forest Residence #1
45700 River Forest Blvd.
Deland FL 32720
Landholding Agency: Agriculture
Property Number: 15201620034
Status: Unutilized
Comments: off-site removal only; no future agency need; 1,034 sq. ft.; relocation difficult; residential; major repairs needed; 40+ months vacant; contact Agriculture for more information.

Idaho

Fourplex Dwelling #12-Moyer
30 Helibase Lane
Cobalt ID
Landholding Agency: Agriculture
Property Number: 15201620032
Status: Underutilized
Directions: 11160, RPUID: B1235.003211
Comments: off-site removal only; no future agency need; 3,360 sq. ft.; relocation difficult; seasonal housing; needs roof & repairs from water damage; contact Agriculture for more information.

Duplex Dwelling #7-Moyer
36 Helibase Lane
Cobalt ID 83469
Landholding Agency: Agriculture
Property Number: 15201620033
Status: Underutilized
Directions: 11157, RPUID: B1232.003211
Comments: off-site removal only; no future agency need; 1,568 sq. ft.; relocation difficult; seasonal housing; needs roof & repairs from water damage; contact Agriculture for more information.

Duplex Dwelling #6-Moyer
38 Helibase Lane
Cobalt ID 83469
Landholding Agency: Agriculture
Property Number: 15201620035
Status: Underutilized
Directions: 11156, RPUID: B1231.003211
Comments: off-site removal only; no future agency need; 1,568 sq. ft.; relocation difficult; needs roof & repairs due to water damage; contact Agriculture for more information.

Duplex Dwelling #5-Moyer
40 Helibase Lane
Cobalt ID 83469
Landholding Agency: Agriculture
Property Number: 15201620036
Status: Underutilized
Directions: 11155, RPUID: B1230.003211
Comments: off-site removal only; no future agency need; 1,568 sq. ft.; relocation difficult; seasonal housing; needs roof & repairs due to water damage; contact Agriculture for more information.

Duplex Dwelling #2-Moyer
42 Helibase Lane

Cobalt ID 83469
Landholding Agency: Agriculture
Property Number: 15201620037
Status: Underutilized
Comments: off-site removal only; no future agency need; 1,568 sq. ft.; seasonal housing; relocation difficult; needs roof & repairs due to water damage; contact Agriculture for more information.

Illinois

(MED) Outer Marker (OM)
Facility
297 Spring Lake Drive
Itasca IL 60143
Landholding Agency: GSA
Property Number: 54201540006
Status: Surplus
GSA Number: 1–U–IL–805
Directions: Land Holding Agency: FAA; Disposal Agency: GSA
Comments: .441 acres; FAA tower site; contact GSA for more information.

Missouri

3 Buildings
90, 91 & 92 Grant Avenue
St. Louis MO 63125
Landholding Agency: GSA
Property Number: 54201610011
Status: Surplus
GSA Number: 7–D–MO–0421–6
Directions: Former St. Louis Air Force Station Family Housing Annex; Disposal Agency: GSA; Landholding Agency: AF
Comments: 77+ yrs. old; 19,350 sq. ft.; 15+ yrs. vacant; residential; buildings in state of disrepair; listed on Nat'l Register of Historic Places; contact GSA for more information.

Nebraska

3 Buildings
2504 Roman Hruska Dr.
Offutt AFB NE 68113
Landholding Agency: Air Force
Property Number: 18201620035
Status: Unutilized
Directions: Building 5082 (782 sq. ft.); 5083 (1,700 sq. ft.), 5084 (5,176 sq. ft.)
Comments: 44+ yrs. old; swimming pool, bath house; water treatment; 6+ mos. vacant; no future agency need; contact AF for more information.

Virginia

822 Lee Blvd.
822 Lee Blvd.
Fort Eustis VA 23604
Landholding Agency: Air Force
Property Number: 18201620034
Status: Unutilized
Comments: 8+ yrs old; 205 sq. ft.; heat plant facility; vacant 7+ mos.; beyond economic repair; no future agency need; contact AF for more information.

Wisconsin

FM Repeater Station Install. #3
Sec. 26, T. 9N, R 6W
Lynxville WI 54626
Landholding Agency: GSA
Property Number: 54201540003
Status: Excess
GSA Number: 1–D–WI–622
Directions: Land Holding Agency: COE; Disposal Agency: GSA
Comments: 50+ yrs. old; 80 sq. ft.; storage; average condition; contact GSA for more information.

TACAN Annex
6400 Block of Lake Rd.
Windsor WI 53598
Landholding Agency: GSA
Property Number: 54201320005
Status: Excess
GSA Number: 1–D–WI–611
Comments: 1 acre; moderate conditions.

Suitable/Unavailable Properties

Building

Arizona

San Carlos Irrigation Project
BIA Old Main Office Bldg.
255 W. Roosevelt
Coolidge AZ 85128
Landholding Agency: GSA
Property Number: 54201440008
Status: Surplus
GSA Number: 9–I–AZ–1706–AA
Directions: Disposal Agency; GSA; Landholding Agency: Bureau of Indian Affairs.
Comments: 83+ yrs. old; 6,745 sq. ft.; 36mos. vacant; residential and commercial; brick structure; fair condition; asbestos & lead based paint; contact GSA for more information.

Arkansas

708 Prospect Avenue
708 Prospect Avenue
Hot Springs AR 71901
Landholding Agency: GSA
Property Number: 54201530006
Status: Surplus
GSA Number: 7–I–AR–0415–EG
Directions: Published in the FR 10/24/2014 under HUD property number 61201440001.
Disposal Agency: GSA; Landholding Agency: Interior
Comments: off-site removal only; 100+ yrs. old; 13,086 sq. ft.; due to size removal will be difficult; vacant 17+ mos.; residential; fair condition; contact GSA for more information.

Connecticut

Shepard of the Sea Chapel &
Community Center
231 Gungywamp Rd.
Groton CT 06340
Landholding Agency: GSA
Property Number: 54201510010
Status: Excess
GSA Number: CT–0933
Directions: Disposal Agency: GSA; Landholding Agency: Navy
Comments: 49+ yrs.-old; 28,777 sq. ft.; vacant 48+ mons.; wood & concrete; severe water damage; mold; sits on 13.5 acres; contact GSA for more information.

District of Columbia

49 L Street
49 L St. SE.
Washington DC 20003
Landholding Agency: GSA
Property Number: 54201520003
Status: Excess
GSA Number: DC–496–1
Comments: 32,013 sq. ft.; storage;67+ mons. vacant; poor condition; roof leaks; extensive structural repairs needed; cracks in walls; contamination; est. repair cost $4,000,000; contact GSA for more info.

Illinois

Peoria Radio Repeater Site
Between Spring Creek and Caterpillar Lane
Peoria IL
Landholding Agency: GSA
Property Number: 54201420008
Status: Excess
GSA Number: I–D–IL–806
Directions: Landholding Agency; COE; Disposal agency GSA
Comments: 8x12 equipment storage shed; fair conditions contact GSA for more information.

Federal Bldg. & Courthouse
201 N. Vermillion St.
Danville IL 61832
Landholding Agency: GSA
Property Number: 54201610003
Status: Excess
GSA Number: 1–G–IL–810
Comments: 67,845 sq. ft.; office & courthouse; good condition; asbestos and LBPs identified; remediation needed; contact GSA for more information.

Louisiana

110 Willow Street
110 Willow Street
Homer LA 71040
Landholding Agency: GSA
Property Number: 54201540005
Status: Excess
GSA Number: 7–A–LA–0533–AA
Directions: Disposal Agency: GSA; Land Holding Agency: Interior
Comments: 54+ yrs. old; 1,754 sq. ft.; residential; vacant 12+ mos.; sits on 0.37 acres land; contact GSA for more information.

3 Buildings & 12.9 Fee Acres
400 Edwards Ave./Harahan FSS Depot
Elmwood LA 70123
Landholding Agency: GSA
Property Number: 54201610009
Status: Surplus
GSA Number: 7–G–LA–0532–AA
Directions: Warehouse 201,964.79 sq. ft.; office/garage 5,034.67 sq. ft.; pump house 1,493.33 sq. ft.
Comments: 47+ yrs. old; warehouse storage; roof leaks; walls deteriorated; contact GSA for more information.

Michigan

Natl Weather Svc Ofc
214 West 14th Ave.
Sault Ste. Marie MI
Landholding Agency: GSA
Property Number: 54200120010
Status: Excess
GSA Number: 1–C–MI–802
Comments: 2230 sq. ft., presence of asbestos, most recent use—office.

Former Newport Nike Missile
Site D–58
800 East Newport Road
Newport MI 48166
Landholding Agency: GSA
Property Number: 54201530010
Status: Excess
GSA Number: 1–D–MI–0536
Directions: Disposal Agency: GSA? Landholding Agency: COE

Comments: 70+ yrs. old; 3 buildings totaling 11,447 sq. ft.; sits on 36.35 acres; industrial; training site; extremely poor/hazardous condition; remediation required; contact GSA for more information.

Minnesota

Erving L. Peterson Memorial
USARC
1813 Industrial Blvd.
Fergus Falls MN 56537
Landholding Agency: GSA
Property Number: 54201520012
Status: Excess
GSA Number: 1–D–MN–0599–AA
Directions: Disposal Agency: GSA; Landholding Agency: US Army Reserve Command
Comments: The property consists of a 6-acre parcel of land w/an 18,537 sf admin. bldg. and 1,548 sf maintenance bldg. Contact GSA for more information.

FM Repeater Station Install. #3
Sec. 24, T. 105N, R 5W
Dresbach MN
Landholding Agency: GSA
Property Number: 54201540004
Status: Excess
GSA Number: 1–D–MN–598
Directions: Land Holding Agency: COE; Disposal Agency: GSA
Comments: 50+ yrs. old; 80 sq. ft.; storage; average condition; contact GSA for more information.

Missouri

Former NMCB15 Richards-Gedaur
RPSUID 212
600 Seabee Drive
Belton MO 64068
Landholding Agency: GSA
Property Number: 54201510004
Status: Surplus
GSA Number: 7–D–MO–0705
Directions: Disposal Agency: GSA; Landholding Agency: Navy
Comments: 10 bldgs. ranging from 960 to 4,980 sq. ft.; 12+ months vacant; some recent use includes: admin./classroom/warehouse; 14.67 acres; asbestos/lead/mold may be present; contact GSA for more information.

Nevada

2 Buildings
Military Circle
Tonopah NV
Landholding Agency: GSA
Property Number: 54201240012
Status: Excess
GSA Number: 9–I–NV–514–AK
Directions: Bldg. 102: 2,508 sf.; bldg. 103: 2,880 sf.
Comments: total sf. for both bldgs. 5,388; Admin.; vacant since 1998; sits on 0.747 acres; fair conditions; lead/asbestos present.

New Jersey

Portion of former Sievers-Sandberg U.S. Army Reserves Center (Camp Pedric
Artillery Ave at Garrison St.
Oldmans NJ 08067
Landholding Agency: GSA
Property Number: 54201320003
Status: Surplus
GSA Number: 1–D–NJ–0662–AB
Directions: On the north side of Rte. 130, between Perkintown Road (Rte. 644) and Pennsgove-Pedricktown Rd (Rte. 642)
Comments: #171; mess hall bldg. #173; 14,282 total sf.; fair/poor conditions; asbestos/lead-based paint; potential legal constraints in accessing property; Contact GSA for more info.

Portion of Former Sievers-Sandberg U.S. Army Reserves Center- Tract 1
NW Side of Artillery Ave. at Rte. 130
Oldmans NJ 08067
Landholding Agency: GSA
Property Number: 54201320015
Status: Excess
GSA Number: 1–D–NJ–0662–AA
Directions: Previously reported under 54200740005 as suitable/available; 16 bldgs. usage varies: Barracks/med./warehouses/garages; property is being parcelized
Comments: 87,011 sf.; 10+ yrs. vacant fair/poor conditions; property may be landlocked; transferee may need to request access from Oldmans Township planning & zoning comm.; contact GSA for more info.

New York

Portion of GSA Binghamton "Hillcrest" Depot-Tract 1
1151 Hoyt Ave.
Fenton NY 13901
Landholding Agency: GSA
Property Number: 54201320017
Status: Surplus
GSA Number: 1–G–NY0760–AC
Directions: Previously reported on March 24, 2006 under 54200610016; this property includes 40 acres of land w/6 structures; property is being parcelized
Comments: Warehouses range from approx. 16,347 sf.-172,830 sf.; admin. bldg. approx. 5,700 sf; guard house & butler bldg. sf. is unknown; 10 vacant; fair conditions; bldgs. locked; entry by appt. w/GSA.

A Scotia Depot
One Amsterdam Road
Scotia NY 12302
Landholding Agency: GSA
Property Number: 54201420003
Status: Surplus
GSA Number: NY–0554–4
Directions: Previously reported in 2006 but has been subdivided into smaller parcel
Comments: 325,000 sq. ft.; storage; 120+ months vacant; poor conditions; holes in roof; contamination; access easement, contact GSA for more information.

Michael J. Dillon
U.S. Memorial Courthouse
68 Court Street
Buffalo NY 14202
Landholding Agency: GSA
Property Number: 54201540010
Status: Excess
GSA Number: NY–0993–AA
Comments: 180950 gross sq. ft.; sits on 0.75 acres; 48+ months vacant; asbestos/LBP maybe present; eligible for Nat'l Register; subject to Historic Preserv. covenants; contact GSA for more info.

North Carolina

Johnson J. Hayes Federal Build
207 West Main Street
Wilkesboro NC 28697
Landholding Agency: GSA
Property Number: 54201540015
Status: Excess
GSA Number: NC–0735–AB
Directions: Take U.S. Highway 421 North toward Wilkesboro/Boone; Take exit 286A; Turn left onto NC–16/NC–18/S Cherry St.; Continue to follow NC–18/S Cherry St.; Turn right onto NC–18/NC–268/W Main St.; Basement—6,870 usable square feet (usf); First Floor—15,755 usf; Second Floor—16,118 usf; Total—38,743 usf
Comments: 47+ yrs. old; 38,743 Gross Square Feet.; office & courtroom; good condition; lease becomes month-to-month 02/2016; asbestos; contact GSA for more information.

Ohio

N. Appalachian Experimental Watershed Research Ctr.
28850 State Rte. 621
Coshocton OH 43824
Landholding Agency: GSA
Property Number: 54201420006
Status: Excess
GSA Number: 1–A–OH–849
Directions: Landholding Agency: Agriculture; Disposal Agency: GSA
Comments: 70,539 total sq. ft. for two bldgs.; storage/office; fair to poor conditions; lead-based paint; asbestos; PCBs; mold; remediation required; contact GSA for more information.

Oklahoma

Carl F. Albert FB/CH
McAlester
301 E. Carl Albert Parkway
McAlester OK 74501
Landholding Agency: GSA
Property Number: 54201540014
Status: Excess
GSA Number: 7–G–OK–0583–AA
Comments: 101+ yrs. old, 13,822 sq. ft.; office & courtroom; remediation of asbestos needed; roof in need of significant repairs; includes 0.49 acres; contact GSA for more information.

Oregon

FAA Non Directional Beacon (NDB) sites on 0.92 acres
93924 Pitney Lane., Sec 6, T 16S R4W, W.M.
Junction City OR 97448
Landholding Agency: GSA
Property Number: 54201540009
Status: Unutilized
GSA Number: 9–OR–0806
Directions: Disposal Agency: GSA; Landholding Agency: FAA; Tax Lot number 16040600; Lane County zoning is a 5 AC min. for residential (RR5)
Comments: 25+ yrs. old; 50 sq. ft.; storage; 24+ mos. vacant; poor condition; 0.92 acres of land; contact GSA for more information.

South Carolina

Former U.S. Vegetable Lab
2875 Savannah Hwy
Charleston SC 29414
Landholding Agency: GSA
Property Number: 54201310001
Status: Excess
GSA Number: 4–A–SC–0609AA

Directions: head house w/3 greenhouses, storage bins
Comments: 6,400 sf.; lab; 11 yrs. vacant; w/in 100 yr. floodplain/floodway; however, is contained; asbestos & lead based paint.

Washington

USARC Moses Lake
Arnold Dr., at Newell St.,
Building 4306
Moses Lake WA 98837
Landholding Agency: GSA
Property Number: 54201610010
Status: Excess
GSA Number: 9–I–WA–1141
Directions: Sits on 2.86 acres
Direction: Disposal Agency: GSA; Landholding Agency: Nat'l Park Service
Comments: 62+ yrs. old; 4,499 sq. ft.; boys & girls club; 4+ yrs. vacant; roof needs repairs; contact GSA for more information.

West Virginia

Naval Information Operations Center
133 Hedrick Drive
Sugar Grove WV 26815
Landholding Agency: GSA
Property Number: 54201430015
Status: Excess
GSA Number: 4–N–WV–0560
Directions: Land holding agency—Navy; Disposal Agency GSA
Comments: 118 Buildings; 445,134 sq. ft.; Navy base; until 09/15 military checkpoint; wetlands; contact GSA for more info.

Wisconsin

Canthook Lake—House/Storage
Canthook Lake
Iron River WI
Landholding Agency: GSA
Property Number: 54201530009
Status: Excess
GSA Number: 1–A–WI–0624–AA
Directions: Disposal Agency: GSA?
Land Holding Agency: Agriculture
Comments: Off-site removal only; 70+ yrs. old; 4,004 sq. ft.; residential; average condition; contact GSA for more information.

FM Repeater Station Install. #3
Sec. 36, T. 25N, R 13W
Bay City WI
Landholding Agency: GSA
Property Number: 54201540002
Status: Excess
GSA Number: 1–D–WI–621
Directions: Land Holding Agency: COE; Disposal Agency: GSA
Comments: 50+ yrs. old; 80 sq. ft.; storage; average condition; contact GSA for more information.

Social Security Office Bldg.
606 N. 9th Street
Sheboygan WI
Landholding Agency: GSA
Property Number: 54201540012
Status: Excess
GSA Number: 1–W–623–AA
Directions: WI0098ZZ
Comments: 37+yrs. old; 4,566 sq. ft.; office building; contact GSA for more information.

Land

California

Delano Transmitting Station
1105 Melcher Rd.
Delano CA 93215
Landholding Agency: GSA
Property Number: 54201330005
Status: Excess
GSA Number: 9–X–CA–1671
Directions: Landholding Agency: Broadcasting Board of Governors Disposal Agency: GSA
Comments: 800 acres; mostly land and some blogs.; unavailable due to Federal interest; transmitting station; vacant since 2007; access can be gain by appt. only; contact GSA for more info.

FAA Sacramento Middle Maker Site
1354 Palomar Circle
Sacramento CA 95831
Landholding Agency: GSA
Property Number: 54201530007
Status: Surplus
GSA Number: 9–U–CA–1707–AA
Directions: Disposal Agency: GSA; Landholding Agency: FAA
Comments: 0.29 Acres; contact GSA for more information.

Florida

Former Outer Maker Site
105th Ave. North
Royal Palm Beach FL 33411
Landholding Agency: GSA
Property Number: 54201610001
Status: Surplus
GSA Number: 4–U–FL_1332AA
Directions: Landholding Agency: FAA; Disposal Agency: GSA
Comments: 0.92 acres; contact GSA for more information.

Former Radio Communication Receiver Site
SW Kanner Hwy
Martin FL 34956
Landholding Agency: GSA
Property Number: 54201610002
Status: Surplus
GSA Number: 4–U–FL–1321
Directions: Landholding Agency: FAA; Disposal Agency: GSA
Comments: 1.06 acres; contact GSA for more information.

Former Radio Communication Receiver Site
SW Kanner Hwy
Martin Co. FL 34956
Landholding Agency: GSA
Property Number: 54201610004
Status: Surplus
GSA Number: 4–U–FL–1321
Directions: Landholding Agency: FAA; Disposal Agency: GSA
Comments: 1.06 acres; contact GSA for more information.

Illinois

FAA Outer Marker
5549 Elizabeth Place
Rolling Meadows IL
Landholding Agency: GSA
Property Number: 54201430004
Status: Excess
GSA Number: I–U–IL–807
Directions: Landholding Agency; FAA; Disposal Agency; GSA
Comments: 9,640 sq. ft.; 12+ months vacant; outer marker to assist planes landing at O'Hare Airport; contact GSA for more information.

Nevada

Ditchrider South East Street
207 South East St.
Fallon NV 89406
Landholding Agency: GSA
Property Number: 54201440007
Status: Surplus
GSA Number: 9–I–NV–0572–AA
Directions: Disposal Agency; GSA; Land Holding Agency; Interior
Comments: 0.32 acres; formerly used us contractor/employee housing structure demolished on land 02/2011. Contact GSA for more information.

USGS Elko Parcel
1701 North 5th Street
Elko NV 89801
Landholding Agency: GSA
Property Number: 54201540013
Status: Surplus
GSA Number: 9–I–NV–0465–AE
Directions: Previous "H Facility"
Comments: 0.90 acres; contact GSA for more information.

New Jersey

49 Acres
Woodbridge Avenue
Edison NJ 08817
Landholding Agency: GSA
Property Number: 54201610006
Status: Excess
GSA Number: NJ–0944–AA
Comments: 49 acres, contact GSA for more information.

Ohio

Glenn Research Center—Plumbrook Station: Parcel #63
6100 Columbus Ave.
Sandusky OH 44870
Landholding Agency: GSA
Property Number: 54201440012
Status: Excess
GSA Number: 1–Z–OH–0598–5–AE
Directions: Landholding Agency: NASA; Disposal Agency: GSA
Comments: 11.5 acres; contamination; various illegally dumped solid waste items (*e.g.*, lead acid batteries, oil filters & containers, & gas cylinders); contact GSA for more information.

Oklahoma

Caney Creek
33.925152–96.690155
Unincorporated OK 73152
Landholding Agency: GSA
Property Number: 54201610005
Status: Excess
GSA Number: 7–G–OK–0852–AA
Comments: 9.82 acres; endangered species in area not specially on land; contact GSA for more information.

South Carolina

Marine Corps Reserve Training Center
2517 Vector Ave.
Goose Creek SC 29406
Landholding Agency: GSA
Property Number: 54201410009

Status: Excess
GSA Number: 4–N–SC–0630–AA
Directions: Landholding Agency: Navy; Disposal Agency: GSA
Comments: 5.59 acres; contact GSA for more information.

Formerly the FAA's D7 Remote Communications Link Receiver Fac.
Latitude N. 33.418194 & Longitude W. 80.13738
Eadytown SC
Landholding Agency: GSA
Property Number: 54201540011
Status: Surplus
GSA Number: 4–U–SC–0633–AA
Directions: Landholding Agency: Transportation; Disposal Agency: GSA
Comments: 5.5 acres; Remote Communications Link Receiver Facility; contact GSA for more information.

Tennessee

Parcel ED–3 E and W (168.30 +/− acres)
South Side of Oak Ridge Turnpike
Oak Ridge TN 37763
Landholding Agency: GSA
Property Number: 54201520015
Status: Surplus
GSA Number: 4–B–TN–0664–AG
Directions: GSA—Disposal Agency; Energy—Landholding Agency; (State Rte. 58)
Comments: accessibility/usage subjected to Federal, state, & local laws including but not limited to historic preservation, floodplains, wetlands, endangered species, Nat'l EPA; contact GSA for more information.

Parcels ED–13, 3A, 16
Portions of D–8 & ED–4
N. Side of Oak Ridge Turnpike (State Rte. 58)
Oak Ridge TN 37763
Landholding Agency: GSA
Property Number: 54201530001
Status: Surplus
GSA Number: 4–B–TN–0664–AF
Directions: Energy: Landholding Agency; GSA: Disposal Agency
Comments: 168 +/− acres; legal constraints: Ingress/egress utility easement; groundwater constraints; contact GSA for more information.

Washington

Paine Field
Everett Facility Section 27
Everett WA
Landholding Agency: GSA
Property Number: 54201610012
Status: Excess
GSA Number: 9–U–WA–1284
Directions: Landholding Agency: FAA; disposal Agency: GSA
Comments: 0.54 acres; used as Outer Maker facility for aircraft approaches; contact GSA for more information.

West Virginia

Former AL1–RCLR Tower Site
2146 Orleans Rd.,
Great Cacapon WV 25422
Landholding Agency: GSA
Property Number: 54201530002
Status: Surplus
GSA Number: 4–U–WV–0561AA
Directions: Direction: Disposal Agency: GSA? Land Holding Agency: Federal Aviation Administration
Comments: 9.69 acres; located on ridgetop.

Unsuitable Properties

Building

Alaska

6 Buildings
Clear Air Force Station
Clear AK 99704
Landholding Agency: Air Force
Property Number: 18201620028
Status: Unutilized
Directions: Building 110; 113; 114; 118; 121; 115
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

California

Building 78
Fort MacArthur
San Pedro CA
Landholding Agency: Air Force
Property Number: 18201620026
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Building 285
Ft. MacArthur
El Segundo CA
Landholding Agency: Air Force
Property Number: 18201620027
Status: Excess
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Building 72
Fort MacArthur
San Pedro CA 90731
Landholding Agency: Air Force
Property Number: 18201620030
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security; Flammable/explosive; diesel fuel adjacent to bldg. 75.
Reasons: Secured Area

Florida

River Forest Residence
#1 Boathouse
45700 River Forest Blvd.
Deland FL 32720
Landholding Agency: Agriculture
Property Number: 15201620041
Status: Unutilized
Comments: documented deficiencies: Structurally unsound; stair-step cracking in exterior; clear threat to physical safety.
Reasons: Extensive deterioration

Salt Springs Bathhouse #2
13851 Highway 19 North
Fort McCoy FL 32134
Landholding Agency: Agriculture
Property Number: 15201620042
Status: Unutilized
Comments: documented deficiencies: Roof collapsing; clear threat to physical safety.
Reasons: Extensive deterioration

2 Buildings
Eglin AFB
Eglin AFB FL 32542
Landholding Agency: Air Force
Property Number: 18201620039
Status: Excess
Directions:
Facility 642 & 1328
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

9 Buildings
Eglin AFB
Eglin AFB FL 32542
Landholding Agency: Air Force
Property Number: 18201620043
Status: Unutilized
Directions: Building 2810, 2814, 9271, 9268, 1338, 12551, 2812, 918, 2813
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

2 Buildings
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77201620023
Status: Unutilized
Directions: A–937 MWR Marina Storage Vacant; S–1409 Bachelor Quarters
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: secured Area

V–3012—Sunset Lounge
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77201620024
Status: Underutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Georgia

6 Buildings
Robins Air Force Base
Robins Air Force Base GA 31098
Landholding Agency: Air Force
Property Number: 18201620038
Status: Underutilized
Directions: Building 978, 990, 991, 992, 996, 995
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Savannah HHIAP,
Facility 1906, XDQU
1401 Robert B. Millier Dr.
Garden City GA 31408
Landholding Agency: Air Force
Property Number: 18201620042
Status: Excess
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Louisiana

ARS Ground Equipment Bldg.
1100 Robert E. Lee Blvd.
New Orleans LA 70124
Landholding Agency: Agriculture
Property Number: 15201620038

Status: Excess
Comments: documented deficiencies: severe damage due rotten interior flooring; clear threat to physical safety.
Reasons: Extensive deterioration

Maryland

2 Buildings
1291 & 1292 Ramp Drive
Joint Base Andrews MD 20762
Landholding Agency: Air Force
Property Number: 18201620031
Status: Unutilized
Directions: Building 1291 & 1292
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Building 1682
1682 Arnold Avenue
Joint Base Andrews MD 20762
Landholding Agency: Air Force
Property Number: 18201620032
Status: Excess
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

C218 Hypervelocity Gun
Chesapeake Beach Detachment
5813 Bayside Rd.
Welcome MD 20732
Landholding Agency: Navy
Property Number: 77201620022
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security; documented deficiencies: building is collapsing; clear threat to physical safety.
Reasons: Extensive deterioration Secured Area

Michigan

Family Housing Bldg. Duplex
1 Coast Guard
Frankfort MI 49635
Landholding Agency: Coast Guard
Property Number: 88201620004
Status: Excess
Directions: (OK1) [14148]
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Nevada

8 Buildings
Indian Springs Casino
Creech AFB NV 89191
Landholding Agency: Air Force
Property Number: 18201620040
Status: Unutilized
Directions: B–95008, B–95013, B–95015, B–95010, B–95012, B–95016, B–95007, B–95020
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Ohio

4 Buildings
Wright-Patterson Air Force Base
Mitchell Dr.
WPAFB OH 45433
Landholding Agency: Air Force
Property Number: 18201620033
Status: Excess
Directions: Building 34081, 34082, 34083, 34058
Comments: public access denied and no alternative method to gain access without compromising national security; property located within an airport runway clear zone or military airfield.
Reasons: Secured Area Within airport runway clear zone

Oklahoma

2 Buildings
Altus AFB—AGGN
Altus OK 73523
Landholding Agency: Air Force
Property Number: 18201620029
Status: Unutilized
Directions: Facility 312 & 329
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Oregon

Black Butte Ground House (1212.004621)
Building #4012, 07657 00
Camp Sherman OR 97730
Landholding Agency: Agriculture
Property Number: 15201620039
Status: Unutilized
Comments: no vehicular access; severely deteriorated; significant water damage causing rot & weakening of foundation; clear threat to physical safety.
Reasons: Extensive deterioration Not accessible by road

Puerto Rico

Building 10
Road 165
Toa Baja PR 00953
Landholding Agency: Air Force
Property Number: 18201620041
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Texas

Building 1736
547 5th Street
Corpus Christi TX 78419
Landholding Agency: Navy
Property Number: 77201620021
Status: Unutilized
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

Virginia

Storage, Rocket Checkout & Assembly Bldg. 1077
589 Worley Road
JBLE-Langley VA 23665
Landholding Agency: Air Force
Property Number: 18201620037
Status: Underutilized
Directions: RPUID:466439
Comments: public access denied and no alternative method to gain access without compromising national security; property located within floodway which has not been correct or contained.
Reasons: Floodway Secured Area

Washington

2 Buildings
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77201620025
Status: Unutilized
Directions: B2525; B2640
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

B170
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77201620026
Status: Unutilized
Comments: flammable/explosive materials are located on Federal facility.
Reasons: Within 2000 ft. of flammable or explosive material

3 Building
Naval Air Station
Whidbey Island WA 98278
Landholding Agency: Navy
Property Number: 77201620027
Status: Unutilized
Directions: B214; B297; B2511
Comments: flammable/explosive materials located on adjacent Federal facility; public access denied and no alternative method to gain access without compromising national security.
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Unsuitable Properties

Land

Idaho

IF–713–IL Fuel & Dispensing Station
Idaho National Lab
Scoville ID 83415
Landholding Agency: GSA
Property Number: 54201620024
Status: Excess
GSA Number: 9–I–ID–00012–S
Directions: Disposal Agency: GSA; Landholding Agency: Energy
Comments: public access denied and no alternative method to gain access without compromising national security.
Reasons: Secured Area

[FR Doc. 2016–14643 Filed 6–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–40]

30-Day Notice of Proposed Information Collection: Housing Counseling Training Grant Program

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection

requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* July 25, 2016.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on February 4, 2016 at 81 FR 6035.

A. Overview of Information Collection

Title of Information Collection: Housing Counseling Training Grant Program.

OMB Approval Number: 2502–0567.

Type of Request: Revision of currently approved collection.

Form Number: SF–424, SF–424Supp, SF–424CB, SF–LLL, HUD–2880, HUD–2994.

Description of the need for the information and proposed use: Eligible organizations submit information to HUD through *Grants.gov* when applying for grant funds to provide housing counseling training to housing counselors. HUD uses the information collected to evaluate applicants competitively and then select qualified organizations to receive funding that supplement their housing counseling training program. Post-award collection, such as quarterly reports, will allow HUD to evaluate grantees' performance.

Respondents: Not for profit Institutions.

Estimated Number of Respondents: 59.

Estimated Number of Responses: 65.

Frequency of Response: One-time application and quarterly reports.

Average Hours per Response: 14.0.

Total Estimated Burden: 1,192.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: June 21, 2016.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2016–15025 Filed 6–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5954–N–01]

Availability of HUD's Fiscal Year 2014 Service Contract Inventory

AGENCY: Office of the Chief Procurement Officer, HUD.

ACTION: Notice.

SUMMARY: This notice advises of the availability to the public of service contracts awarded by HUD in Fiscal Year (FY) 2014.

FOR FURTHER INFORMATION CONTACT: Lisa D. Maguire, Assistant Chief Procurement Officer, Office of Policy, Systems and Risk Management, Office of the Chief Procurement Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; telephone number 202–708–0294 (this is not a toll-free number) and fax number 202–708–8912. Persons with hearing or speech impairments may access Lawrence Chambers telephone number via TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: In accordance with section 743 of Division C of the Consolidated Appropriations Act of 2010 (Pub. L.111–117, approved December 16, 2009, 123 Stat. 3034, at 123 Stat. 3216), HUD is publishing this notice to advise the public of service contracts inventories that were awarded in FY 2014. The inventories are organized by function and are reviewed by HUD to better understand how contracted services are used to support HUD's primary mission, to insure HUD maintains an adequate workforce for operations and to research whether contractors were performing inherently governmental functions.

The inventory was developed in accordance with guidance issued on November 5, 2010 by the Office of Management and Budget's Office Federal Procurement Policy (OFPP). OFPP's guidance is available at *http://www.whitehouse.gov/sites/default/files/omb/procurement/memo/service-contact-inventories-guidance-11052010/pdf.*

HUD has posted its inventory and a summary of the inventory on the Department of Housing and Urban Development's homepage at the following link: *http://portal.hud.gov/hudportal/HUD?src=/program_offices/cpo/sci.*

Dated: June 13, 2016.

Lisa D. Maguire,

Assistant Chief Procurement Officer.

[FR Doc. 2016–15018 Filed 6–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5909–N–41]

30-Day Notice of Proposed Information Collection: ConnectHome Use and Barriers Focus Groups

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The

purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: July 25, 2016.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Anna P. Guido, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Anna P. Guido at *Anna.P.Guido@hud.gov* or telephone 202–402–5533. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Guido.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on March 29, 2016 at 81 FR 17489.

A. Overview of Information Collection

Title of Information Collection: ConnectHome Use and Barriers Focus Groups.

OMB Control Number: 2528–New.

Type of Request: New collection.

Form Number: Focus groups.

Description of the need for the information and proposed use: President Barack Obama and HUD Secretary Julián Castro announced ConnectHome on July 15, 2015, as the next step in the Obama Administration's efforts to increase access to high-speed Internet access for all Americans. Through public-private partnerships, nonprofit organizations, businesses, and Internet service providers (ISPs), ConnectHome will offer high-speed Internet service, devices, technical training, and digital literacy programs to residents of HUD-assisted housing in 28 pilot communities, including the Choctaw Nation of Oklahoma. As communities begin to implement ConnectHome in 2016 and connect residents to Internet access within their homes, these focus groups will illuminate how families are taking advantage of ConnectHome as well as barriers they may encounter. The focus groups will explore ConnectHome subscribers' previous broadband access, current and planned patterns of use, and current and anticipated benefits of their at-home high-speed Internet access. Questions will emphasize educational Internet use such as completing homework, connecting parents with educators, and applying to college. In addition, the focus groups will explore barriers to signing up for ConnectHome, securing devices, and using the Internet.

Respondents (*i.e.* affected public): ConnectHome-eligible residents in 5 of the 28 pilot communities.

Estimated Number of Respondents: 55 Total 11 Respondents each at 5.

Frequency of Response: One time.

Average Hours Per Response: 1.5.

Total Estimated Burden: 82.5.

Respondents' Obligation: Voluntary.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. chapter 35.

Dated: June 21, 2016.

Anna P. Guido,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 2016–15024 Filed 6–23–16; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000 MO 4500094301]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Eastern Montana Resource Advisory Council meeting will be held on July 14, 2016, in Billings, Montana. When determined, the meeting location and times will be announced in a news release.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in eastern Montana. At this meeting, topics will include: An Eastern Montana/Dakotas District report, Billing Field Office and Miles City Field Office manager reports, a travel management, recreation planning, individual RAC member reports and other issues the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Authority: 43 CFR 1784.4–2.

Diane M. Friez,

Eastern Montana/Dakotas District Manager.

[FR Doc. 2016–14983 Filed 6–23–16; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVL01000. L51100000.GN0000. LVEMF1601180 241A; NVN–090443 and NVN–082888; 13–08807; MO#4500047785; TAS: 14X5017]

Notice of Availability of the Final Environmental Impact Statement for the Proposed Bald Mountain Mine North and South Operations Area Projects, White Pine County, Nevada

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of Availability.

SUMMARY: In compliance with the National Environmental Policy Act (NEPA) of 1969, as amended, and the Federal Land Policy and Management Act (FLPMA) of 1976, as amended, the Bureau of Land Management (BLM) Egan Field Office, Ely, Nevada has prepared a Final Environmental Impact Statement (EIS) for the proposed Bald Mountain Mine North and South Operations Area Projects (Project) and by this notice is announcing its availability.

DATES: The BLM will not issue a final decision for a minimum of 30 days after the date that the Environmental Protection Agency publishes its Notice of Availability in the **Federal Register**.

ADDRESSES: Copies of the Final EIS for the Bald Mountain Mine North and South Operations Area Projects are available for public inspection at the BLM Ely District Office and at *http://on.doi.gov/14R9rZ8*. Additional information is available at *http://on.doi.gov/14vXckC*.

FOR FURTHER INFORMATION CONTACT: For further information contact Stephanie Trujillo, BLM Ely District Project Manager, telephone: (775) 289–1831; address: 702 North Industrial Way, Ely, NV 89301; email: *strujill@blm.gov*. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Barrick Gold U.S. Inc. (Barrick) proposes to expand, construct, and operate an open-pit gold mining operation located in the Bald Mountain Mining District in White Pine County, Nevada, approximately 65 miles northwest of the Town of Ely. The proposed development and expansion would result in the disturbance of approximately 7,097 acres, which would be located primarily on public land managed by the BLM. The life of the mine would extend for 80 years including construction, operation, reclamation, closure, reclamation monitoring, and post-closure monitoring. Barrick completed the sale of the Bald Mountain Mine (BMM) to Kinross Gold Corporation (Kinross) on January 11, 2016 prior to final completion of the EIS process. Kinross has assumed ownership of the Bald Mountain Mine and the proposed expansion of the North and South Operations Area Projects (Project). The Final EIS has retained the name of Barrick in the document, but Kinross is the new operator of the BMM and proponent of the proposed expansion.

The Final EIS describes and analyzes the proposed project site-specific impacts (including cumulative) on all affected resources. The Final EIS describes four alternatives: the Proposed Action, the North and South Operations Area Facilities Reconfiguration Alternative, the North and South Operations Area Western Redbird Modification Alternative, and the No Action Alternative.

The North and South Operations Area Facilities Reconfiguration Alternative was developed to avoid or minimize potential impacts to mule deer migration; Greater Sage-Grouse leks, associated Priority Habitat Management Areas (PHMAs), and General Habitat Management Areas (GHMAs); visual impacts affecting the cultural setting of the Pony Express National Historic Trail, Ruby Valley Pony Express Station, and Fort Ruby National Historic Landmark; and visual impacts affecting visitor aesthetics at the Ruby Lake National Wildlife Refuge. The North and South Operations Area Facilities Reconfiguration Alternative would eliminate 1,429 acres of disturbance from the Proposed Action and an additional 1,934 acres of previously authorized disturbance would not be constructed, representing a 3,352-acre (47 percent) reduction in comparison to the Proposed Action.

The North and South Operations Area Western Redbird Modification (WRM) Alternative was developed to further reduce potential impacts to mule deer migration. The WRM Alternative further reduces impacts to groundwater and key cultural and visual resource settings, and reduces potential impacts to Greater Sage-Grouse. The WRM Alternative would eliminate 1,831 acres of disturbance from the Proposed Action and an additional 2,169 acres of previously authorized disturbance would not be constructed, representing a 3,989-acre (56 percent) reduction in comparison to the Proposed Action. Five other alternatives were considered but eliminated from further analysis. Mitigation measures are considered to minimize environmental impacts and to ensure the Project does not result in unnecessary or undue degradation of public lands.

On April 16, 2012, a Notice of Intent was published in the **Federal Register** inviting scoping comments on the Proposed Action. A legal notice for scoping was prepared by the BLM and published in the Elko Daily Free Press, Ely Times, Eureka Sentinel, and Reno Gazette-Journal informing the public of the BLM's intention to prepare the Bald Mountain Mine North and South Operations Area Projects EIS. Public scoping meetings were held May 7–10, 2012, in Ely, Eureka, Elko, and Reno, Nevada. A total of 180 individual comments were received. The comments were incorporated in a Scoping Report and were considered in the preparation of the Draft EIS.

Concerns raised during scoping included: potential degradation of surface water or groundwater quality and potential depletion to groundwater from pit lakes and/or water withdrawals for mine operations; potential impacts to mule deer habitat and migration corridors; potential impacts to Greater Sage-Grouse habitat and strutting grounds; potential impacts to Wild Horse Herd Management Areas (HMAs), including herd access to surface water sources; potential air quality impacts from fugitive dust containing mercury, arsenic, or other contaminants; and potential impacts to visual resources including the visual setting of the Pony Express Trail and the Ruby Lake National Wildlife Refuge. The North and South Operations Area Facilities Reconfiguration Alternative and Western Redbird Alternative were developed to help reduce impacts to mule deer, Greater Sage-Grouse, and visual resources. Mitigation measures have also been included to show how impacts on resources could be minimized.

The BLM prepared the Draft EIS in conjunction with its five Cooperating

Agencies: Nevada Department of Wildlife, State of Nevada Sagebrush Ecosystem Program, Eureka County, White Pine County, and the U. S. Fish and Wildlife Service Ruby Lake National Wildlife Refuge. A Notice of Availability was published in the **Federal Register** on August 14, 2015 (80 FR 48913–48914), and the public was invited to provide written comments on the Draft EIS during the 45-day comment period (8/14/2015 to 9/28/2015). The BLM extended the comment period an additional 15 days to 60 days based on several comments received that requested an extension of the comment period on the Draft EIS.

A legal notice was prepared by the BLM and published in the Elko Daily Free Press, Ely Times, Eureka Sentinel, and Reno Gazette-Journal informing the public of the availability of the Bald Mountain Mine North and South Operations Area Projects Draft EIS and upcoming public meetings, which were held in Ely, Eureka, Elko, and Reno (9/15/2015 to 9/18/2015). A total of 35 individual comment submittals containing 451 individual comments were received. Comments on the Draft EIS received from the cooperating agencies, the public, and the internal BLM review were considered and incorporated, as appropriate, into the Final EIS. Concerns included potential impacts (1) to mule deer migration; (2) to Greater Sage-Grouse leks and associated habitats; (3) to springs from groundwater pumping; (4) to Wild Horse Herd Management Areas (HMAs), including herd access to surface water sources; (5) to air quality (specifically from mercury); (6) of climate change on wildlife and other resources; and (7) to visual resources and other indirect impacts to the setting of the Pony Express National Historic Trail, Ruby Valley Pony Express Station, Fort Ruby National Historic Landmark, and Sunshine Locality National Register District and the Ruby Lake National Wildlife Refuge. There were also comments received in general support or opposition to the Project. These public comments resulted in the addition of clarifying text, but did not significantly change the analysis. The selected agency preferred alternative is the Western Redbird Modification Alternative.

On September 21, 2015, during the public comment period for the Draft EIS, the Record of Decision (ROD) and 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment was signed. To ensure consistency with the Plan Amendment, the BLM compared the maps and habitat management categories in that document to the initial habitat maps from BLM Instruction Memorandum 2012–044 (December 27, 2011) that were used in the development of the DEIS. The proponent has proposed a robust suite of applicant-committed environmental protection measures into their Proposed Action and all Alternatives, to incorporate Design Features and Management Decisions from the 2015 Nevada and Northeastern California Greater Sage-Grouse Approved Resource Management Plan Amendment. As a result, the analysis and resulting mitigation for Greater Sage-Grouse outlined in Chapter 6 (Mitigation and Monitoring) of this Final EIS are consistent with the Greater Sage-Grouse Plan. This will be achieved by avoiding, minimizing, and compensating for residual impacts by applying beneficial mitigation actions.

Following a 30-day Final EIS availability and review period, a Record of Decision (ROD) will be issued. The decision reached in the ROD is subject to appeal to the Interior Board of Land Appeals. The 30-day appeal period begins with the issuance of the ROD.

Authority: 40 CFR 1506.6 and 40 CFR 1506.10.

Jill A. Moore,

Field Manager, Egan Field Office.

[FR Doc. 2016–15017 Filed 6–23–16; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[16X L1109PF LLUTG01100 L13110000.EJ0000 24 1A]

Notice of Availability of the Final Environmental Impact Statement for the Monument Butte Area Oil and Gas Development Project, Duchesne and Uintah Counties, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969, as amended (NEPA), and the Federal Land Policy and Management Act of 1976, as amended, the Bureau of Land Management (BLM) has prepared a Final Environmental Impact Statement (EIS) for the Monument Butte Area Oil and Gas Development Project and is announcing its availability.

DATES: The BLM will not issue a final decision on the proposal for at least 45 days after the date on which the Environmental Protection Agency publishes its Notice of Availability of the Final EIS in the **Federal Register**.

ADDRESSES: Copies of the Monument Butte Area Oil and Gas Development Project Final EIS are available for public inspection at the BLM-Vernal Field Office at 170 South 500 East Vernal, Utah 84078. Interested persons may also review the Final EIS on the Internet at *http://www.blm.gov/ut/st/en/fo/vernal/planning/nepa_.html.*

FOR FURTHER INFORMATION CONTACT: Stephanie Howard, NEPA Coordinator; telephone: 435–781–4469; address 170 South 500 East Vernal, Utah 84078; email *BLM_UT_Vernal_Comments@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: Newfield Exploration Company (Newfield) submitted oil and gas field development plan for the Monument Butte Project Area (MBPA) to the BLM. The MBPA encompasses approximately 119,784 acres in an already developed field containing approximately 3,209 existing oil and gas wells. The MBPA contemplates the drilling of up to 5,750 new oil and gas wells over a 16-year period, and the construction and operation of ancillary transportation, transmission, processing, and treatment facilities. The MBPA is located in southeastern Duchesne County and southwestern Uintah County:

Salt Lake Meridian, Utah

Tps. 8 S., Rs. 15 thru 19 E.
Tps. 9 S., Rs. 15 thru 19 E.

The areas described, including both Federal and non-Federal lands, aggregate 119,784.12 acres.

The BLM's purpose and need for the action is to respond to Newfield's proposal. The BLM intends to approve, approve with modifications, or disapprove Newfield's proposed project and project components based on the analysis of potential impact in the Final EIS and related documents. As part of this process, the BLM worked with Newfield, the State of Utah, Environmental Protection Agency Region 8 (EPA) to develop measures designed to avoid, minimize, or mitigate environmental impacts to the extent possible, while allowing Newfield to exercise its valid existing lease rights. The Federal Land Policy and Management Act of 1976 recognizes oil and gas development as one of the uses of the public lands. Federal mineral leasing statutes, including the Mineral Leasing Act of 1920, 30 U.S.C. 181 *et seq.*, and their implementing regulations recognize the right of lease holders to develop Federal mineral resources to meet continuing national needs and economic demands, subject to lease stipulations and reasonable measures that the BLM may require to minimize adverse impacts.

The BLM is the lead Federal agency for this Final EIS. Cooperating agencies include the EPA, Utah's Public Lands Policy and Coordination Office, and Duchesne and Uintah Counties.

On August 25, 2010, the BLM published in the **Federal Register** a Notice of Intent (NOI) to prepare an EIS. Public response to the NOI and public meetings included seven letters: Two from Federal agencies, one from a State agency, one from a county agency, and three from industry or private individuals. Comments focused on air quality impacts, impacts to adjacent gilsonite mining operations, recognition of valid existing lease rights, requests for flexibility in the decision, economic benefits, water impacts and protection, produced water treatment and management alternatives, noise impacts to wildlife and residences, weed expansion, the BLM's statutory and regulatory authority to manage air resources, and resource management plan (RMP) conformance.

On December 20, 2013, the BLM published a Notice of Availability in the **Federal Register** announcing the availability of the Draft EIS. The Draft EIS was made available for a 45-day public comment period, which was subsequently extended by an additional 30 days at the request of the State of Utah. Twenty-three unique comment letters or emails were submitted: One from a Federal agency, one from the House of Representatives, one from a State agency, two from county governments, one from the proponent (Newfield), nine from other oil and gas industry representatives or trade groups, one from the proponent's outside legal counsel, one from a non-governmental organization, and six from private individuals. There were also 1,780 form letters received from members of the public that expressed concern regarding ozone impacts, and 161 form letters received from Newfield employees that expressed concern over impacts to their livelihoods from the Agency Preferred Alternative. Substantive comments focused on technical flaws, water impacts and protection, air quality impacts, the BLM's statutory or regulatory authority to protect air quality or enforce air quality laws, economic benefits and losses, protection of wetlands and streams, produced water treatment and management alternatives, and surface restrictions in the Pariette Wetlands Area of Critical Environmental Concern (ACEC) and *Sclerocactus* core conservation areas.

The parameters of the Agency Preferred Alternative, Alternative D, were adjusted between the Draft EIS and the Final EIS in response to issues raised during the public comment period, which were not considered when the alternative was originally designed. The BLM engineers determined that the data provided regarding these technical issues was accurate and that measures presented in Alternative D adversely affected the proponent's ability to diligently and efficiently develop oil and gas resources in the MBPA consistent with their valid existing rights. The BLM also determined that other adjustments to the alternative were necessary. Since these adjustments were all within the range of alternatives considered in the Draft EIS, the BLM determined that a supplement to the Draft EIS was not necessary. However, the review period following release of the Final EIS has been extended to 45 days to provide additional time for review of these changes prior to BLM making a decision on the project.

The Final EIS describes and analyzes the impacts of Newfield's Proposed Action and three alternatives, including the No Action Alternative. The following is a summary of the alternatives:

1. *Proposed Action*—Up to 5,750 new oil or gas wells would be drilled over a period of 16 years. Additionally, this alternative includes the construction of approximately 243 miles of new roads and pipelines, 363 miles of new pipeline adjacent to existing roads, 21 new compressor stations, one gas processing plant, 7 new water treatment and injection facilities, 12 gas and oil separation plants, 6 water pump stations, as well as the drilling of a freshwater collector well, and the expansion of 6 existing water treatment and injection facilities and 3 existing compressor stations. Total new surface disturbance under the Proposed Action would be approximately 16,129 acres, which would be reduced to 7,808 acres through interim reclamation.

2. *No Action Alternative*—Drilling and completion of development wells and infrastructure would continue as previously approved, and the proposed natural gas development on BLM lands as described in the Proposed Action would not be implemented. Based on the foregoing documents and a review of information from Utah Division of Oil, Gas and Mining, the BLM has estimated that, as of December 31, 2012, 788 wells remain to be drilled including construction of roads, pipelines, and additional support facilities. Total new surface disturbance under the No Action Alternative would be 870 acres of new disturbance, which would be reduced to 659 acres through interim reclamation.

3. *Field-wide Electrification Alternative*—This alternative is identical to the Proposed Action, in that it would allow the drilling of up to 5,750 new wells in addition to the existing producing wells, with associated facilities. However, this alternative also incorporates a phased field-wide electrification component which consists of construction of 34 miles of overhead cross-country 69kV transmission lines, 156 miles of distribution lines, and 11 substations. Total new surface disturbance under this alternative would be approximately 20,112 acres, which would be reduced to 10,173 acres through interim reclamation.

4. *Agency Preferred (Resource Protection) Alternative*—This alternative was revised to meet the purpose and need for the project while: (1) Protecting the relevant and important values of the Pariette Wetlands ACEC; (2) minimizing the amount of new surface disturbance and habitat fragmentation within and around the Fish and Wildlife Service proposed Level 1 and 2 Core Conservation Areas (for two federally-listed plant species: The Uinta Basin hookless cactus and the Pariette cactus); (3) precluding new well pads (with the exception of Newfield's proposed water collector well) and minimizing new surface disturbance (roads or pipelines) within 100-year floodplains; (4) precluding new well pads, pipelines, or roads within riparian habitats; and, (5) minimizing overall impacts from the proposed oil and gas development through the use of directional drilling technology. Under the Resource Protection Alternative, up to 5,750 new wellbores would be drilled. Additionally, this alternative includes the construction of approximately 226 miles of new roads and pipelines, 318 miles of new pipeline adjacent to existing roads, 21 new compressor stations, a gas processing plant, 7 new water treatment and injection facilities, 12 gas and oil separation plants, 6 water pump stations, as well as the drilling of a freshwater collector well, and the expansion of 6 existing water treatment and injection facilities and 3 existing compressor stations. Total new surface disturbance under the Agency Preferred

Alternative would be approximately 10,122 acres, which would be reduced to 4,978 acres through interim reclamation.

The Final EIS contains detailed analysis of impacts to: Air quality, including greenhouse gas emissions; geology and minerals; paleontological resources; soil, surface water and groundwater resources; vegetation, including weeds; range, including livestock grazing; fish and wildlife, including migratory birds and raptors; special status wildlife and plant species; cultural resources; land use and transportation; recreation; visual resources; special designations, including Pariette Wetlands ACEC, Lower Green River Corridor ACEC, and Suitable Lower Green River Wild and Scenic River; and social and economic resources, including environmental justice. Based on the impact analysis, on-site, landscape and compensatory conservation and mitigation actions have been identified for each alternative to achieve resource objectives.

Also worth noting are changes between the draft and final EIS to the air quality section. In the Draft EIS BLM committed to conducting photochemical modeling post-ROD through the Air Resource Management Strategy modeling platform. However, that modeling platform became available shortly after the comment period on the Draft EIS closed, so that modeling was conducted for, and the results are included in, the Final EIS. Upon review of those modeling results, applicant-committed air quality mitigation measures were refined, and additional applicant- and BLM-committed measures to further reduce emissions from the MBPA were included in the Final EIS. This robust suite of measures was developed in consultation between Neufield, the BLM, EPA and the State of Utah. The robust measures will help minimize and mitigate impacts to important air resource values. These measures have been analyzed in the Final EIS and are within the range of alternative analyzed in the Draft EIS.

All required consultations, including Endangered Species Act section 7 Consultation, National Historic Preservation Act section 106 Consultation, and government-to-government consultation with interested Native American Tribes, have been completed. During the section 7 Consultation for the Final EIS, many additional applicant- and agency-committed mitigation measures, including a detailed Conservation, Restoration and Mitigation Strategy for the Pariette and Uinta Basin Hookless Cactus, were developed and incorporated into the Agency Preferred Alternative. This process is explained in greater detail in the Biological Opinion. The Biological Assessment, Biological Opinion, and additional mitigation measures and cactus strategy are all attached to the Final EIS as Appendix J.

Since the publication of the Monument Butte Draft EIS, the Utah Greater Sage-Grouse Land Use Plan Amendment Record of Decision (ROD) has been issued. No Sagebrush Focal Areas, General Habitat Management Areas, or Priority Habitat Management Areas are present within the Monument Butte project boundary. Therefore, the BLM determined that the provisions of the Utah Greater Sage-Grouse Land Use Plan Amendment do not affect the MBPA.

After the conclusion of Final EIS review period, the BLM will issue a ROD which will describe the selected alternative and any conditions of approval, including a mitigation strategy.

The selected alternative will be conceptual only. Any well pads, roads, pipelines and other facilities and infrastructure that may be constructed in the future in the project area will be subject to an appropriate level of site-specific NEPA analysis prior to final approval.

Authority: 40 CFR 1506.6, 40 CFR 1506.10.

Jenna Whitlock,

Acting State Director.

[FR Doc. 2016–15023 Filed 6–23–16; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Application for Withdrawal and Opportunity for Public Meeting; Idaho (IDI 38117)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service (USFS) has filed an application with the Bureau of Land Management (BLM) requesting the Secretary of the Interior to withdraw approximately 107.02 acres of National Forest System land from the mining laws to protect the Dump Creek Diversion Ditch within the Salmon National Forest in Idaho. This notice temporarily segregates the land for up to 2 years from the United States mining laws while the application is being processed. This notice also gives an opportunity for the public to comment on the application and to request a public meeting.

DATES: Comments and public meeting requests must be received by September 22, 2016.

ADDRESSES: Comments and public meeting requests should be sent to the Idaho State Director, BLM, 1387 S. Vinnell Way, Boise, ID 83709.

FOR FURTHER INFORMATION CONTACT: Jeff Cartwright, BLM Idaho State Office 208–373–3885 or Sherry Stokes-Wood, Lands, USFS Intermountain Regional Office 801–625–5800. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact either of the above individuals. The FIRS is available 24 hours a day, 7 days a week. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The USFS has filed an application with the BLM, pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714, requesting that the Secretary of the Interior withdraw, for a 20-year period and subject to valid existing rights, the National Forest System land described below from location and entry under the United States mining laws. The land will remain open to discretionary uses.

Salmon National Forest

Boise Meridian

T. 23 N., R. 20 E.,
Secs. 12, 13, and 24.

Beginning at USLM No. 4, Eureka Mining District, said Monument No. 4 being more particularly located in the unsurveyed NW1/4SE1/4 Section 24. From point of beginning, North 4°32′52″ East 5061.93 feet to Corner No. 1, the True Point of Beginning, said Corner being identical with Corner No. 1 Lemhi Gold Placer, as shown on Moose Creek Hydraulic Placer Mineral Survey Plat No. 3057. Thence North 0°01′ West, 4109.7 feet along the west line of Lemhi Gold Placer to a point at the intersection of line 1–2 of Rocky Mountain Placer, MS No. 1867, which point lies North 58°56′ West, 58.1 feet from Corner No. 1 of MS No. 1867 and said point being Corner No. 2 of herein described lands; Thence North 58°56′ West, along line 1–2 of MS No. 1867 for a distance of 817.35 feet to Corner No. 3; Thence South 0°01′ East, 4529.24 feet to Corner No. 4; Thence South 8°33′ East, 1877.1 feet to Corner No. 5; Thence South 89°49′ East, 883 feet to Corner No. 6, said Corner No. 6 being identical with Corner No. 4 of Moose Creek Hydraulic Placer MS 3057; Thence North 8°33′ West, 1877.1 feet along the west line of said Moose Creek Hydraulic Placer to Corner No. 7 said Corner No. 7 being identical with Corner No. 5 of MS No. 3057; Thence North 89°49′ West, 183 feet to Corner No. 1, the True Point of Beginning.

The area described contains 107.02 acres in Lemhi County.

The purpose of the withdrawal is to ensure the continued conservation of the aquatic and riparian habitats, and to protect the USFS watershed investments in the Salmon River Drainage.

The use of a right-of-way, interagency agreement, or cooperative agreement would not adequately protect the land from nondiscretionary uses which could result in a permanent loss of significant values and capital investments.

There are no suitable alternative sites with equal or greater benefit to the government and the structures needing protection already exist on this site. It is not economically feasible to construct the necessary watershed protection dam and other related improvements on alternative sites because of the topography and hydrologic conditions.

The USFS would not need to acquire water rights to fulfill the purpose of the requested withdrawal.

Records related to the application may be examined by contacting the Salmon-Challis National Forest, Forest Supervisor's Office, at 1206 S. Challis St. Salmon, ID 83467, or by contacting Jeff Cartwright at the above BLM address or by phone number.

For a period until September 22, 2016, all persons who wish to submit comments, suggestions, or objections in connection with the withdrawal application may present their views in writing to the BLM State Director at the address indicated above.

Comments, including names and street addresses of respondents, will be available for public review during regular business hours. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the withdrawal application. All interested persons who desire a public meeting for the purpose of being heard on the withdrawal application must submit a written request to the BLM State Director at the address indicated above by September 22, 2016. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** and a newspaper having a general circulation in the vicinity of the land at least 30 days before the scheduled date of the meeting.

For a period until June 25, 2018, the National Forest System land described in this notice will be segregated from location and entry under the United States mining laws, but not from discretionary uses, unless the application is denied or canceled or the withdrawal is approved prior to that date.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

James M. Fincher,

Chief, Branch of Lands, Minerals and Water Rights, Resource Services.

[FR Doc. 2016–15015 Filed 6–23–16; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2016–0049]

Environmental Assessment for Commercial Wind Leasing and Site Assessment Activities on the Outer Continental Shelf (OCS) Offshore the Island of Oahu, Hawaii; MMAA104000

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Notice of Intent to prepare an Environmental Assessment.

SUMMARY: BOEM is announcing its intent to prepare an Environmental Assessment (EA) of potential commercial wind leasing and site assessment activities on the OCS offshore the island of Oahu, Hawaii. The EA will address environmental impacts and socioeconomic effects related to the proposed action, issuance of one or more commercial wind energy leases and approval of site assessment activities on those leases. This notice serves to announce the beginning of the formal scoping process. Scoping will help identify reasonable alternatives to the proposed action, focus the analysis in the EA on potentially significant issues, and eliminate those issues that are determined to be insignificant or considered irrelevant to the analysis. BOEM will also use the scoping process to seek public comment on the full range of potential environmental impacts, including input relevant to the National Historic Preservation Act (NHPA). Additional information on the proposed action may be found at *http://www.boem.gov/Hawaii/.*

DATES: Comments should be submitted no later than August 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mark Eckenrode, Bureau of Ocean Energy Management, Pacific OCS Region, 760 Paseo Camarillo, Suite 102, Camarillo, California 93010, (805) 384–6388, or *mark.eckenrode@boem.gov.*

SUPPLEMENTARY INFORMATION:

1. Proposed Action

The proposed action that will be the subject of the EA consists of (a) the issuance of a wind energy lease or leases within some or all of the Call Area (see below) offshore the island of Oahu; and (b) the approval of site assessment activities (including the installation and operation of a meteorological tower and/or one or more meteorological buoys) on the lease or leases. BOEM will also consider the environmental impacts associated with potential site characterization activities—including geophysical, geotechnical, archaeological, and biological surveys—that a lessee may undertake to fulfill the information requirements for its Site Assessment Plan and Construction and Operation Plan at 30 CFR 585.610 and .626 respectively.

2. Description of the Call Area

A detailed description of the Call Area can be found in the *Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore the Island of Oahu, Hawaii—Call for Information and Nominations* that is being published concurrently with this notice. A map of the Call Area can be found at: *http://www.boem.gov/Hawaii/.*

3. National Historic Preservation Act

BOEM will use the National Environmental Policy Act (NEPA) process to inform its Section 106 consultation pursuant to the NHPA (54 U.S.C. 300101 *et seq.*), as provided for in 36 CFR 800.2(d)(3). BOEM will consider the potential effects of wind energy development on historic properties early in the planning process. BOEM is seeking public comment and input regarding the identification of historic properties or potential impacts to historic properties located in nearshore and coastal areas adjacent to the Call Area from the proposed action.

4. Cooperating Agencies

BOEM invites other Federal, State, and local governments to consider becoming cooperating agencies in the preparation of this EA. CEQ regulations implementing the procedural provisions of NEPA define cooperating agencies as those with "jurisdiction by law or special expertise" (40 CFR 1508.5).

Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and remember that an agency's role in the environmental analysis neither enlarges nor diminishes the final decision-making authority of any agency involved in the NEPA process.

BOEM, as the lead agency, will not provide financial assistance to cooperating agencies. Even if an organization is not a cooperating agency, opportunities will exist to provide information and comments to BOEM during the normal public input phases of the NEPA process.

5. Public Scoping Meetings

BOEM will hold public meetings on Oahu. The specific dates, times, and locations of the scoping meetings will be advertised at least two weeks in advance of each event.

6. Comments

Federal, State, and local governments, Native Hawaiians, and the public are requested to send their written comments regarding environmental issues and the identification of reasonable alternatives related to the proposed action described in this notice through one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* In the field entitled, "Enter Keyword or ID," enter BOEM–2016–0049, and then click "search." Follow the instructions to submit public comments and view supporting and related materials available for this notice; or

2. U.S. mail in an envelope labeled "Comments on Hawaii EA" and addressed to Regional Director, BOEM Pacific OCS Region, 760 Paseo Camarillo, Suite 102, Camarillo, California 93010. Comments must be postmarked by the last day of the comment period to be considered. This date is August 8, 2016.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comments to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: This Notice of Intent to prepare an EA is in compliance with NEPA, as amended (42 U.S.C. 4231 *et seq.*), and is published pursuant to 43 CFR 46.305.

Dated: June 16, 2016.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–14829 Filed 6–23–16; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Bureau of Ocean Energy Management

[Docket No. BOEM–2016–0036]; [MMAA104000]

Commercial Leasing for Wind Power on the Outer Continental Shelf Offshore the Island of Oahu, Hawaii—Call for Information and Nominations (Call)

AGENCY: Bureau of Ocean Energy Management (BOEM), Interior.

ACTION: Call for Information and Nominations for Commercial Leasing for Wind Power on the Outer Continental Shelf, Offshore the Island of Oahu, Hawaii.

SUMMARY: With this Call for Information and Nominations (Call), BOEM invites the submission of information and nominations from parties interested in obtaining one or more commercial wind energy leases that would allow lessees to propose the construction of wind energy projects on the Outer Continental Shelf (OCS)[1] offshore the island of Oahu, Hawaii. In general, the OCS is defined as 3—200 nautical miles from shore. Although this announcement is not itself a leasing announcement, the area described herein as the "Oahu Call Area," or portions thereof, may be made available for future leasing. BOEM will use responses to this Call to gauge specific interest in acquiring commercial wind leases in some or all of the Oahu Call Area, as required by 43 U.S.C. 1337(p)(3).

Parties wishing to submit a nomination in response to this Call should submit detailed and specific information as described in the section entitled, "Required Nomination Information." A "nomination" for purpose of this Call would be a submission from a company interested in a commercial wind energy lease within the Oahu Call Area.

This announcement also requests comments and information from interested and affected parties about site conditions, resources, and existing uses within or in close proximity to the Oahu Call Area that would be relevant to BOEM's review of any nominations submitted and/or to BOEM's subsequent decision to offer all or part of the Oahu Call Area for commercial wind leasing. The information BOEM is requesting is described in the section of this Call entitled, "Requested Information from Interested or Affected Parties."

This Call is published pursuant to subsection 8(p)(3) of the OCS Lands Act (OCSLA), 43 U.S.C. 1337(p)(3), as well as the implementing regulations at 30 CFR part 585.

The Oahu Call Area described in this notice is located on the OCS offshore the island of Oahu, Hawaii. The Oahu Call Area consists of two subareas, the area to the north of Oahu ("Oahu North") and the area to the south of Oahu ("Oahu South"). Oahu North is approximately 7 to 24 nautical miles Northwest of Kaena Point and consists of 17 full and 20 partial OCS blocks. Oahu South is approximately 7 to 35 nautical miles South of Diamond Head and consists of 44 full and 32 partial OCS blocks. In total, the Oahu Call Area consists of the sum of these two subareas, totaling 61 full and 52 partial OCS blocks. A detailed description of the area and how it was developed is described in the section of this Call entitled, "Description of the Oahu Call Area."

DATES: BOEM must receive nominations describing your interest within the Oahu Call Area by a postmarked date of August 8, 2016 for your nomination to be considered. BOEM will consider only those nominations received by August 8, 2016. BOEM requests comments or other submissions of information by this same date. Parties having already submitted unsolicited lease requests prior to this publication do not need to resubmit the areas previously requested in their unsolicited lease requests. However, such parties may submit modifications to the areas they are requesting for lease during the comment period associated with this notice. Such modifications must conform to the first requirement of the section in this Call entitled, "Required Nomination Information."

Submission Procedures: If you are submitting a nomination for a lease in response to this Call, you must submit your nomination to the following address: BOEM, Pacific OCS Region, 760 Paseo Camarillo, Suite 102 (CM 102), Camarillo, California 93010. A paper copy submitted to this address, postmarked by the deadline noted above, is the only method for submitting a nomination that BOEM will accept. In addition to a paper copy of the nomination, you must include an electronic copy of the nomination on a data storage device. BOEM will list the parties who submitted nominations and the location of the proposed lease areas (*i.e.*, OCS blocks nominated) on the BOEM Web site after the 45-day comment period has closed.

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[1] As defined in 43 U.S.C. 1331(a), the term OCS means "all submerged lands lying seaward and outside of the area of lands beneath navigable waters, as defined in section 1301 of this title, and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control."

Comments and other submissions of information may be submitted by either of the following two methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* In the entry entitled, "Enter Keyword or ID," enter BOEM–2016–0036, and then click "search." Follow the instructions to submit public comments and view supporting and related materials available for this notice.

2. U.S. Postal Service or other delivery service. Send your comments and information to the following address: Bureau of Ocean Energy Management, Pacific OCS Region, 760 Paseo Camarillo, Suite 102 (CM 102), Camarillo, California 93010.

All responses will be reported on *http://www.regulations.gov.* If you wish to protect the confidentiality of your nomination or comment, clearly mark the relevant sections and request that BOEM treat them as confidential. Please label privileged or confidential information that you consider privileged or confidential with the notation "Contains Confidential Information," and consider submitting such information as a separate attachment. Treatment of confidential information is addressed in the section of this Call entitled, "Protection of Privileged or Confidential Information." Information that is not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

FOR FURTHER INFORMATION CONTACT: Ms. Karen Herrera, BOEM, Pacific OCS Region, 760 Paseo Camarillo, Suite 102 (CM 102), Camarillo, California, 93010, (805) 384–6263 or *Karen.Herrera@boem.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Call for Information and Nominations

The OCS Lands Act requires BOEM to award leases competitively, unless BOEM makes a determination that there is no competitive interest (43 U.S.C. 1337(p)(3)). One of the purposes of this notice is to inform the public that, based on the submittal of several unsolicited lease requests, BOEM has determined that there may be competitive interest in developing all or portions of the Oahu Call Area. Descriptions of the unsolicited lease requests submitted are provided in the section of this notice entitled, "Existing Unsolicited Lease Requests Offshore Oahu." With this Call, BOEM is also soliciting new expressions of interest in obtaining a lease in the Oahu Call Area.

This Call also requests information from interested and affected parties on issues relevant to BOEM's review of nominations for potential leasing in the Oahu Call Area. A lease, whether issued through a competitive or noncompetitive process, would give the lessee the exclusive right to subsequently seek BOEM approval for the development of wind energy in the lease area. A lease does not grant the lessee the right to construct any facilities; rather, the lease grants the lessee the right to submit to BOEM a Site Assessment Plan (SAP) and Construction and Operations Plan (COP), which BOEM must approve before the lessee may conduct the proposed activities in the lease area (30 CFR 585.600 and 585.601).

Although BOEM believes that competitive interest may exist for the Oahu Call Area, a formal determination will be made after the close of the comment period provided in this Call. Depending on the input received during the comment period for the Call, BOEM may proceed with the competitive leasing process as set forth in 30 CFR 585.211 through 585.225; or the noncompetitive leasing process as set forth in 30 CFR 585.231 and 232; or a combination of the two. For instance, BOEM may determine that there is no competitive interest in Oahu North and that there is competitive interest in Oahu South. In this case, BOEM could proceed with the noncompetitive leasing process for Oahu North and the competitive leasing process for Oahu South. These processes are explained in detail in the section of this notice entitled, "BOEM's Planning and Leasing Process."

Regardless of whether the leasing process is competitive, noncompetitive, or both, it will include subsequent opportunities for the public to provide input, and any proposed actions will be reviewed thoroughly for potential environmental impacts and multiple use/planning consequences. For example, the Department of Defense (DOD) conducts operations and readiness activities for both hardware and personnel on the OCS. BOEM will consult with the DOD regarding potential issues concerning offshore testing, training and operational activities, and will develop appropriate stipulations to avoid or mitigate conflicts with DOD in the Call Areas. The final area(s) that may be offered for lease, if any, has not yet been determined, and may differ from the Oahu Call Area as identified in this Call.

Background

The Energy Policy Act of 2005 (EPAct)

EPAct amended OCSLA to authorize the Secretary of the Interior (Secretary) to grant leases, easements, or rights-of-way (ROWs) on the OCS for activities that are not otherwise authorized by law and produce or support the production, transportation, or transmission of energy from sources other than oil or gas. Subsection 8(p) requires the Secretary to issue regulations to carry out the new energy development authority on the OCS. The Secretary delegated this authority to issue leases, easements, and ROWs, and to promulgate associated regulations, to the Director of BOEM. On April 29, 2009, BOEM issued the *Renewable Energy and Alternate Uses of Existing Facilities on the OCS* rule, 30 CFR part 585, which can be found at: *http://www.boem.gov/uploadedFiles/30_CFR_585.pdf.*

Executive Order 13547: Stewardship of the Ocean, Our Coasts, and the Great Lakes

On July 19, 2010, the President signed Executive Order 13547 (Order) establishing a national ocean policy and the National Ocean Council (75 FR 43023). The Order establishes a comprehensive, integrated national policy for the stewardship of the ocean, our coasts, and the Great Lakes. Where BOEM actions affect the ocean or coast, the Order requires BOEM to take such action as necessary to implement this policy, the stewardship principles and national priority objectives adopted by the Order, with guidance from the National Ocean Council. BOEM appreciates the importance of coordinating its planning endeavors with other OCS users and regulators and relevant Federal agencies (*e.g.*, the U.S. Fish and Wildlife Service (USFWS), the National Park Service (NPS), the U.S. Coast Guard (USCG), and the National Oceanic and Atmospheric Administration (NOAA), among others) and intends to follow principles of marine planning and coordinate with the Pacific Islands Regional Planning Body established by the National Ocean Council.

BOEM Hawaii Intergovernmental Renewable Energy Task Force

BOEM established a Hawaii Intergovernmental Renewable Energy Task Force (Task Force) in 2011, to facilitate coordination among relevant Federal agencies and affected state and local governments throughout the leasing process. The Task Force supports the review of requests for commercial and research leases and rights-of-way grants for power cables on the Federal OCS, and provides public information on renewable energy developments proposed within Federal OCS waters offshore of Hawaii coastlines. The Task Force meeting materials are available on the BOEM Web site at: *http://www.boem.gov/Hawaii/*.

Actions Taken by the State of Hawaii in Support of Renewable Energy Development

Establishing Renewable Portfolio Standards

The State of Hawaii established a renewable portfolio goal in 2001. This goal was replaced with an enforceable renewable portfolio standard (RPS) through Act 95 in 2004. In 2009, Act 155 increased the RPS to 40 percent by 2040. Finally, in 2015, State of Hawaii Governor David Ige signed into law Act 97, which directs the state's utilities to generate 100 percent of their electricity sales from renewable energy resources by 2045. As the most oil dependent state in the nation, Hawaii's transition to renewable resources for power generation will improve Hawaii's economy, environment and energy security.

Hawaii Clean Energy Initiative

In 2008, the State of Hawaii, in partnership with the U.S. Department of Energy, signed a memorandum of understanding (MOU) to accomplish the goal of transforming Hawaii's energy economy from one largely dependent on imported fossil fuels to one using only renewable energy. This MOU established the foundation for the Hawaii Clean Energy Initiative (HCEI). In 2014, the U.S. Department of Energy renewed its long-term partnership with the State of Hawaii, in HCEI 2.0, and committed to assisting Hawaii in exceeding the state's renewable energy goals by working in collaboration with energy leaders, partners and stakeholders to address Hawaii's unique energy challenges. To learn more about the HCEI, see: *http://www.hawaiicleanenergyinitiative.org/*.

Existing Unsolicited Lease Requests Offshore Oahu

On January 22, 2015, BOEM received two lease requests from AW Hawaii Wind, LLC (AW Hawaii). On October 8, 2015, BOEM received a lease request from Progression Hawaii Offshore Wind, Inc. (Progression). BOEM has determined that both potential developers are legally, technically, and financially qualified to hold a renewable energy lease under 30 CFR 585.106 and 107.

AW Hawaii Oahu Northwest Project

AW Hawaii proposes to lease an area northwest of Oahu ("Oahu Northwest Project"). The proposed Oahu Northwest Project consists of the development of a floating offshore wind facility with an approximate nameplate capacity of 400 megawatts (MW) of renewable energy generation. The area included in the lease request consists of 10 partial OCS blocks (encompassing 32 sub-blocks in total) comprising approximately 13.4 square nmi (4,608 hectares). A map of the AW Hawaii Oahu Northwest Project is available on the BOEM Web site at: *http://www.boem.gov/AWH-Northwest-Proposed-Map/*.

AW Hawaii Oahu South Project

AW Hawaii also proposes to lease an area south of Oahu ("Oahu South Project"). The proposed Oahu South Project consists of the development of a floating offshore wind facility with an approximate nameplate capacity of 400 megawatts (MW) of renewable energy generation. The area included in the lease request consists of 10 partial OCS blocks (encompassing 34 sub-blocks in total) comprising approximately 14.27 square nmi (4,896 hectares). A map of the AW Hawaii Oahu South Project is available on the BOEM Web site at: *http://www.boem.gov/AWH-South-Proposed-Map/*.

Progression Lease Request

Progression submitted an unsolicited lease request proposing to lease an area on the OCS south of Oahu's coast ("South Coast of Oahu Project"), but distinct from the area requested for lease by AW Hawaii in its Oahu South Project. Progression's South Coast of Oahu Project consists of a floating offshore wind facility with an approximate nameplate capacity of 400 MW of renewable energy. The lease request includes 7 full and 12 partial OCS blocks (encompassing 218 sub-blocks in total) comprising approximately 91.5 square nmi (31,392 hectares). A map of the South Coast of Oahu Project is available on the BOEM Web site at: *http://www.boem.gov/Progression-Proposed-Project-Area-Map/*.

BOEM's Planning and Leasing Process

Depending on the input received in response to this Call, BOEM will proceed with the competitive leasing process, the noncompetitive leasing process, or a combination of the two.

I. Competitive Leasing Process

If, after receiving nominations in response to this Call, BOEM determines competitive interest exists in all or a portion of the Oahu Call Area, it would follow the steps required by 30 CFR 585.211 through 585.225, as outlined below.

(1) *Area Identification:* BOEM will identify areas for environmental analysis and consideration for leasing in consultation with appropriate Federal agencies, states, local governments, and other interested parties. BOEM will consider comments and nominations made in response to this Call with respect to areas and issues that should receive consideration and analysis, including but not limited to: areas with unique geological conditions, archeological sites, and other uses of the OCS. The environmental analysis will detail the potential effect of leasing (primarily site characterization surveys and wind resource assessment) on the human, marine, and coastal environments, and BOEM will develop measures to mitigate adverse impacts, including lease stipulations and conditions. BOEM will comply with the requirements of the National Environmental Policy Act (NEPA), the Coastal Zone Management Act (CZMA), and other applicable Federal statutes as they apply to its decision to issue one or more leases in the Oahu Call Area.

(2) *Proposed Sale Notice:* If BOEM decides to proceed with competitive leasing after conducting its Area Identification analysis and completing the necessary environmental reviews, it will publish a Proposed Sale Notice (PSN) in the **Federal Register** with a comment period of 60 days and send the PSN to the necessary parties pursuant to 30 CFR 585.211. The PSN will describe the area(s) that may be offered for leasing and the proposed terms and conditions of the potential lease sale, including the proposed auction format, lease form, and lease provisions. Additionally, the PSN will describe the proposed criteria and process for evaluating bids.

(3) *Final Sale Notice:* If BOEM decides to proceed with a lease sale after considering comments received in response to the PSN, it will publish the Final Sale Notice (FSN) in the **Federal Register** at least 30 days before the date of the sale. BOEM will publish the criteria for winning bid determinations in the FSN.

(4) *Bid Submission and Evaluation:* Following publication of the FSN in the **Federal Register**, BOEM would offer the

lease(s) through a competitive auction process, using the procedures specified in the FSN. The conduct of the sale, including bids and bid deposits, if applicable, would be reviewed for technical and legal adequacy. BOEM would ensure bidders have complied with all applicable regulations and the terms of the FSN. BOEM reserves the right to reject any or all bids, as well as the right to withdraw a lease area from the sale.

(5) *Issuance of a Lease:* Following the selection of a winning bid or bids by BOEM, the submitter(s) is/are notified of the decision and provided a set of official lease documents for execution. The successful bidder(s) will be required to execute the lease, pay the remainder of the bonus bid, if applicable, and file the required financial assurance within 10 business days of receiving the lease documents. Upon receipt of the required payments, financial assurance, and properly executed lease forms, BOEM would issue a lease to the successful bidder(s).

II. Noncompetitive Leasing Process

BOEM's noncompetitive leasing process would include the following steps:

(1) *Determination of No Competitive Interest:* If, after evaluating all relevant information, including responses to this Call, BOEM determines there is no competitive interest in all or a portion of the Oahu Call Area, it may proceed with the noncompetitive lease issuance process pursuant to 30 CFR 585.231 and 232. BOEM would ask if the sole respondent who nominated a particular area wants to proceed with acquiring the lease; if so, the respondent would be required to submit an acquisition fee as specified in 30 CFR 585.502(a). After receiving the acquisition fee, BOEM would follow the process outlined in 30 CFR 585.231(d) through (i), which would include the publication of a Determination of No Competitive Interest in the **Federal Register**.

(2) *Review of Lease Request:* BOEM would comply with the relevant requirements of NEPA, the Coastal Zone Management Act (CZMA), Endangered Species Act of 1973 (ESA), National Historic Preservation Act (NHPA), and other applicable Federal statutes before issuing a lease noncompetitively. Further, BOEM would coordinate and consult, as appropriate, with relevant Federal agencies, other affected or interested parties, and affected state and local governments in formulating lease terms, conditions, and stipulations.

(3) *Lease Issuance:* After completing its review of the lease request, BOEM may offer the lease.

Environmental Review Process

BOEM intends to prepare an environmental assessment (EA) pursuant to NEPA, which will consider the environmental impacts associated with issuing commercial wind leases and approving site assessment activities on those leases within some or all of the Oahu Call Area. BOEM is publishing, concurrently with this Call, a Notice of Intent (NOI) to prepare an EA, which seeks public input in identifying the environmental issues and reasonable alternatives to be considered in the EA to inform our leasing decision.

The EA will consider the environmental impacts associated with leasing and site characterization scenarios (including geophysical, geotechnical, archaeological, and biological surveys) and site assessment scenarios (including the installation and operation of meteorological towers and/or buoys) within the Oahu Call Area. The NOI also solicits information pertaining to impacts to historic properties, which include historic districts, archaeological sites, and National Historic Landmarks. It is important to note that the environmental effects of the construction or operation of any wind energy facility would not be within the scope of this environmental review process, but rather would be considered under a separate, subsequent, project-specific NEPA analysis after a Construction and Operations Plan (COP) is submitted.

Several consultations may be conducted concurrently with, and integrated into, the NEPA process. These consultations include, but are not limited to, those required by the CZMA, ESA, the Magnuson-Stevens Fishery Conservation and Management Act, and Section 106 of the NHPA. The NOI can be found at: *http://www.boem.gov/hawaii/*.

In the event a lease is issued and the lessee subsequently submits a Site Assessment Plan (SAP) pursuant to 30 CFR 585.605–618, BOEM would then determine whether the EA adequately considers the environmental impacts of the activities proposed in the lessee's SAP. If BOEM determines the analysis in the EA adequately considers these impacts, then no further NEPA analysis would be required before BOEM makes a decision on the SAP. If, on the other hand, BOEM determines the analysis in the EA is inadequate for that purpose, BOEM would conduct additional NEPA analysis before making a decision on the SAP. In either case, after the completion of any necessary environmental reviews, BOEM would make a decision to approve, approve with modifications, or disapprove the SAP.

Once a lessee is prepared to propose a wind energy generation facility on its lease, it would submit a Construction and Operations Plan (COP). BOEM then would prepare a separate site- and project-specific NEPA analysis of the proposed project. This analysis would likely take the form of an Environmental Impact Statement, and would provide stakeholders with comprehensive information regarding the environmental impacts of the construction and operation of the proposed facilities. This analysis would inform BOEM's decision to approve, approve with modification, or disapprove a lessee's COP pursuant to 30 CFR 585.628. This NEPA process also would provide additional opportunities for public involvement.

Description of the Oahu Call Area

The Oahu Call Area consists of two OCS sub-areas. Oahu North is located approximately 7–24 nmi west of Kaena Point, Oahu. Oahu South is located approximately 7–35 nmi south of Barbers Point, Oahu. BOEM may adjust this potential leasing area in response to comment submissions and information received in response to this Call and the associated NOI, described above in the section entitled, "Environmental Review Process."

Map of the Oahu Call Area

A map of the Oahu Call Area can be found at: *http://www.boem.gov/Hawaii.apx*. A large-scale map of the Oahu Call Area showing boundaries with numbered blocks is available from BOEM at the following address: Bureau of Ocean Energy Management, Pacific OCS Region, Renewable Energy Section, 760 Paseo Camarillo, Suite 102 (CM 102), Camarillo, California 93010. Phone (805) 384–6263, Fax: (805) 388–1049.

TABLE 1—LIST OF OCS BLOCKS INCLUDED IN OAHU NORTH

Protraction name	Protraction No.	Block No.	Sub-block
Kauai Channel	NF04–08	6180	N, O, P.

TABLE 1—LIST OF OCS BLOCKS INCLUDED IN OAHU NORTH—Continued

Protraction name	Protraction No.	Block No.	Sub-block
Kauai Channel	NF04–08	6181	M, N.
Kauai Channel	NF04–08	6228	F, G, H, J, K, L, N, O, P.
Kauai Channel	NF04–08	6229	D, E, F, G, H, I, J, K, L, M, N, O, P.
Kauai Channel	NF04–08	6230	ALL.
Kauai Channel	NF04–08	6231	A, B, C, E, F, G, H, I, J, K, L, M, N, O, P.
Kauai Channel	NF04–08	6232	E, I, J, M, N, O, P.
Kauai Channel	NF04–08	6233	M.
Kauai Channel	NF04–08	6278	B, C, D, F, G, H, J, K, L, N, O, P.
Kauai Channel	NF04–08	6279	ALL.
Kauai Channel	NF04–08	6280	ALL.
Kauai Channel	NF04–08	6281	ALL.
Kauai Channel	NF04–08	6282	ALL.
Kauai Channel	NF04–08	6283	ALL.
Kauai Channel	NF04–08	6284	ALL.
Kauai Channel	NF04–08	6285	A, B, C, E, F, G, H, I, J, K, L, M, N, O, P.
Kauai Channel	NF04–08	6328	B, C, D, F, G, H, K, L, P.
Kauai Channel	NF04–08	6329	ALL.
Kauai Channel	NF04–08	6330	ALL.
Kauai Channel	NF04–08	6331	ALL.
Kauai Channel	NF04–08	6332	ALL.
Kauai Channel	NF04–08	6333	ALL.
Kauai Channel	NF04–08	6334	A, B, C, D, E, F, G, H, I, J, K, M, N.
Kauai Channel	NF04–08	6335	A, B.
Kauai Channel	NF04–08	6378	D, H.
Kauai Channel	NF04–08	6379	ALL.
Kauai Channel	NF04–08	6380	ALL.
Kauai Channel	NF04–08	6381	ALL.
Kauai Channel	NF04–08	6382	ALL.
Kauai Channel	NF04–08	6383	A, B, C, D, E, F, G, H, I, J, K, M, N, O.
Kauai Channel	NF04–08	6384	A.
Kauai Channel	NF04–08	6429	B, C, D, F, G, H.
Kauai Channel	NF04–08	6430	A, B, C, D, E, F, G, H, K, L.
Kauai Channel	NF04–08	6431	A, B, C, D, E, F, G, H, I, J, K, L, N, O.
Kauai Channel	NF04–08	6432	ALL.
Kauai Channel	NF04–08	6433	A, B, C, E, F, I, J, N.
Kauai Channel	NF04–08	6482	B, C, F.

TABLE 2—LIST OF OCS BLOCKS INCLUDED IN OAHU SOUTH

Protraction name	Protraction No.	Block No.	Sub-block
Kauai Channel	NF04–08	6939	D, H.
Kauai Channel	NF04–08	6940	A, B, C, D, E, F, G, H, I, J, K, L, N, O, P.
Kauai Channel	NF04–08	6990	B, C, D, G, H, K, L, P.
Oahu	NF04–09	6901	ALL.
Oahu	NF04–09	6902	ALL.
Oahu	NF04–09	6903	A, B, C, E, F, G, H, I, J, K, L, M, N, O, P.
Oahu	NF04–09	6904	E, F, G, H, I, J, K, L, M, N, O, P.
Oahu	NF04–09	6905	I, J, K, L, M, N, O, P.
Oahu	NF04–09	6906	M, N, O, P.
Oahu	NF04–09	6951	ALL.
Oahu	NF04–09	6952	ALL.
Oahu	NF04–09	6953	ALL.
Oahu	NF04–09	6954	ALL
Oahu	NF04–09	6955	ALL.
Oahu	NF04–09	6956	ALL.
Oahu	NF04–09	6957	A, B, C, E, F, G, H, I, J, K, L, M, N, O, P.
Oahu	NF04–09	6958	E, F, I, J, K, L, M, N, O, P.
Oahu	NF04–09	6959	M,N.
Oahu	NF04–09	7001	A, B, C, D, F, G, H, K, L, O, P.
Oahu	NF04–09	7002	ALL.
Oahu	NF04–09	7003	ALL.
Oahu	NF04–09	7004	ALL.
Oahu	NF04–09	7005	ALL.
Oahu	NF04–09	7006	ALL.
Oahu	NF04–09	7007	ALL.
Oahu	NF04–09	7008	ALL.
Oahu	NF04–09	7009	ALL.
Oahu	NF04–09	7010	E, I.
Oahu	NF04–09	7051	D, H.
Oahu	NF04–09	7052	A, B, C, D, E, F, G, H, I, J, K, L, N, O, P.

TABLE 2—LIST OF OCS BLOCKS INCLUDED IN OAHU SOUTH—Continued

Protraction name	Protraction No.	Block No.	Sub-block
Oahu	NF04–09	7053	ALL.
Oahu	NF04–09	7054	ALL.
Oahu	NF04–09	7055	ALL.
Oahu	NF04–09	7056	ALL.
Oahu	NF04–09	7057	ALL.
Oahu	NF04–09	7058	ALL.
Oahu	NF04–09	7059	A, B, C, E, F, I.
Oahu	NF04–09	7102	B, C, D, G, H, L, P.
Oahu	NF04–09	7103	ALL.
Oahu	NF04–09	7104	ALL.
Oahu	NF04–09	7105	ALL.
Oahu	NF04–09	7106	ALL.
Oahu	NF04–09	7107	ALL.
Oahu	NF04–09	7108	A, B, C, E, F, G, I, J, M, N.
Maui	NF04–12	6003	A, B, C, D, E, F, G, H, J, K, L, N, O, P.
Maui	NF04–12	6004	ALL.
Maui	NF04–12	6005	ALL.
Maui	NF04–12	6006	ALL.
Maui	NF04–12	6007	ALL.
Maui	NF04–12	6008	A, B, E, M.
Maui	NF04–12	6053	B, C, D, G, H, L, P.
Maui	NF04–12	6054	ALL.
Maui	NF04–12	6055	ALL.
Maui	NF04–12	6056	ALL.
Maui	NF04–12	6057	ALL.
Maui	NF04–12	6058	A, M, N.
Maui	NF04–12	6103	D.
Maui	NF04–12	6104	A, B, C, D, E, F, G, H, J, K, L, N, O, P.
Maui	NF04–12	6105	ALL.
Maui	NF04–12	6106	ALL.
Maui	NF04–12	6107	ALL.
Maui	NF04–12	6108	A, B, E, F, I, J, K, L, M, N, O, P.
Maui	NF04–12	6109	ALL.
Maui	NF04–12	6110	A, E, I, M.
Maui	NF04–12	6154	C, D, G, H, K, L, P.
Maui	NF04–12	6155	ALL.
Maui	NF04–12	6156	ALL.
Maui	NF04–12	6157	ALL.
Maui	NF04–12	6158	ALL.
Maui	NF04–12	6159	ALL.
Maui	NF04–12	6160	A, E, I, M.
Maui	NF04–12	6205	A, B, C, D.
Maui	NF04–12	6206	A.
Maui	NF04–12	6208	B, C, D.
Maui	NF04–12	6209	A, B, C, D.
Maui	NF04–12	6210	A.

Areas Not Included in the Call

During the process of delineating the Oahu Call Area, BOEM determined that the following areas would not be appropriate for leasing and development at this time:

1. *Hawaiian Islands Humpback Whale National Marine Sanctuary (Humpback Whale NMS).* Under the OCSLA, BOEM may not issue leases within any unit of a National Marine Sanctuary. Therefore, BOEM excluded the Humpback Whale NMS from leasing consideration. Note that the Oahu Call Area is located adjacent to the Humpback Whale NMS. BOEM will coordinate with the National Oceanic and Atmospheric Administration's Office of National Marine Sanctuaries and other relevant agencies regarding potential impacts to the Humpback Whale NMS and, if necessary, will develop appropriate lease stipulations and mitigation measures to reduce or eliminate such impacts.

2. *Bottomfish Restricted Fishing Areas.* Certain areas are set aside by the State of Hawaii as Bottomfish Restricted Fishing Areas. In order to avoid potential multiple use conflicts, BOEM is not including these areas in the Oahu Call Area.

3. *Areas with Water Depths Beyond 1,100 meters.* BOEM removed areas in water depths beyond 1,100 meters from consideration for leasing at this time. Based on a National Renewable Energy Laboratory (NREL) technical report (NREL, TP–6A20–55049, Improved Offshore Wind Resource Assessment in Global Climate Stabilization Scenarios, 2012), BOEM considers 1,100 meters to be the reasonable limit on water depth for the purposes of determining potential areas for lease, at this time.

4. *Low Wind Resource Areas.* BOEM removed areas with average annual wind speeds below 7 meters per second (m/s). Based on the NREL technical report (NREL, TP–6A20–55049, Improved Offshore Wind Resource Assessment in Global Climate Stabilization Scenarios, 2012), a 7 m/s wind speed was considered to be a conservative lower limit for offshore wind resource.

Navigational Considerations

BOEM analyzed USCG 2013 and 2014 Automatic Identification System (AIS) data, including density plots for various individual vessel types (*e.g.,* tankers, cargo vessels, tugs, etc.) that traverse the OCS offshore Oahu. BOEM used this AIS data to inform its determination of potential areas suitable for leasing on the OCS offshore Oahu. The AIS data used to conduct this analysis, in addition to other AIS tools, can be downloaded at: *http://marinecadastre.gov/ais/*.

Consideration of Requested Areas

In developing the Oahu Call Area, BOEM considered the areas requested by AW Hawaii and Progression. Both developers have conducted stakeholder engagement on Oahu and have made their proposals considering wind resource, water depth, and proximity to shore.

Areas of Interest for Further Analysis

BOEM is seeking public comment regarding the identification of historic properties or potential impacts to historic properties located in the vicinity of the Oahu Call Area that could result from the proposed action (*i.e.*, lease issuance and potential site assessment activities). Specifically, BOEM is requesting information on historic sites, districts, and National Historic Landmarks, as well as cultural corridors, traditional cultural properties, and other historic properties.

Required Nomination Information

If you intend to submit a nomination for a commercial wind energy lease in the areas identified in this notice, you must provide the following information:

1. The BOEM Protraction name, number, and specific whole or partial OCS blocks within the Oahu Call Area that are of interest for commercial wind leasing, including any required buffer area. If your proposed lease area includes partial blocks, include the sub-block letter (A–P). Additionally, you should submit a shapefile or geodatabase of the project area compatible with ArcGIS 10.3 and projected in WGS 84_UTM Zone 4N.
2. A description of your objectives and the facilities you would use to achieve those objectives.
3. A preliminary schedule of proposed activities, including those leading to commercial operations.
4. Available and pertinent data and information concerning renewable energy resources and environmental conditions in the area(s) you wish to lease, including energy and resource data and information that you used to evaluate the Oahu Call Area. Where applicable, spatial information should be submitted in a format compatible with ArcGIS 10.3 and projected in WGS 84_UTM Zone 4N.
5. Documentation demonstrating you are legally qualified to hold a lease, as set forth in 30 CFR 585.106 and 107. Examples of the documentation appropriate for demonstrating your legal qualifications and related guidance can be found in Chapter 2 and Appendix B of the BOEM Renewable Energy Framework Guide Book available at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/REnGuidebook_03August2009_3_-pdf.aspx*. Legal qualification documents will be placed in an official file that may be made available for public review. If you wish any part of your legal qualification documentation to be kept confidential, clearly identify what should be kept confidential and why such documentation should be confidential, and submit it under separate cover (see "Protection of Privileged or Confidential Information Section," below). Any documentation you submit to demonstrate your legal qualifications must be provided to BOEM in both paper and electronic formats. BOEM considers an Adobe PDF file on a storage media device to be an acceptable format for an electronic copy.
6. Documentation demonstrating you are technically and financially capable of constructing, operating, maintaining, and decommissioning the facilities described in (2) above. Guidance regarding the required documentation to demonstrate your technical and financial qualifications can be found at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/QualificationGuidelines-pdf.aspx*. Any documentation you submit to demonstrate your technical and financial qualifications must be provided to BOEM in both paper and electronic formats. BOEM considers an Adobe PDF file on a storage media device to be an acceptable format for an electronic copy.

It is critical that you submit a complete nomination so BOEM may evaluate your submission in a timely manner. If BOEM reviews your nomination and finds it is incomplete, BOEM will inform you in a letter describing the specific information missing from your nomination. You must then submit this missing information in order for BOEM to deem your submission complete. You will be given 15 business days from the date of that letter to submit the information. If you do not meet this deadline, or if BOEM determines this second submission is still incomplete, then BOEM retains the right to deem your nomination invalid. In such a case, BOEM will not process your nomination.

Participating in a Lease Sale Without Responding to This Call

It is not required that you submit a nomination in response to this Call in order to submit a bid in a potential competitive lease sale offshore Oahu. However, you will not be able to participate in such a lease sale unless you demonstrate prior to the sale that you are legally qualified to hold a BOEM renewable energy lease, and you demonstrate that you are technically and financially capable of constructing, operating, maintaining, and decommissioning the facilities you would propose to install on your lease. To ensure BOEM has sufficient time to process your qualifications package, you must submit this package prior to or during the PSN 60-day public comment period. More information can be found at: *http://www.boem.gov/Renewable-Energy-Program/Regulatory-Information/QualificationGuidelines-pdf.aspx*

Requested Information From Interested or Affected Parties

BOEM is requesting specific and detailed comments from Federal, state, and local governments, Native Hawaiians, and the public regarding the following:

1. Geological, geophysical, and biological conditions (including bottom and shallow hazards and live bottom) in the area described in this Call.
2. Historic properties, including archaeological or cultural resources, potentially affected by the construction of meteorological towers, the installation of meteorological buoys, or commercial wind development in the areas identified in this Call.
3. Existing uses of the areas, including navigation (commercial and recreational vessel use), fishing locations, and commercial fishing areas.
4. Information relating to potential impacts resulting from the siting of wind turbine generators in the Oahu Call Area.
5. Available and pertinent data and information concerning renewable energy resources and environmental conditions in the area identified in this Call. Where applicable, spatial information should be submitted in a format compatible with ArcGIS 10.3 and projected in WGS 84_UTM Zone 4N.
6. Habitats that may require special attention during siting and construction.
7. Other relevant socioeconomic, technical, biological, and/or environmental information. Socioeconomic information could

include information on non-monetary credits offered at the lease sale stage or recommendations on community benefits.

Protection of Privileged or Confidential Information

Freedom of Information Act

BOEM will protect privileged or confidential information you submit when required by the Freedom of Information Act (FOIA). Exemption 4 of FOIA applies to trade secrets and commercial or financial information that is privileged or confidential. If you wish to protect the confidentiality of such information, clearly label it with "Contains Confidential Information" and request BOEM treat it as confidential, and consider submitting such information as a separate attachment. BOEM will not disclose such information if it qualifies for exemption from disclosure under FOIA. Information not labeled as privileged or confidential will be regarded by BOEM as suitable for public release.

BOEM will not treat as confidential any aggregate summaries of such information or comments not containing such information. Additionally, BOEM will not treat as confidential (1) the legal title of the nominating entity (for example, the name of your company), or (2) the list of whole or partial blocks that you are nominating.

Section 304 of the National Historic Preservation Act (16 U.S.C. 470w–3(a))

BOEM is required to withhold the location, character, or ownership of historic resources if it determines disclosure may, among other things, risk harm to the historic resources or impede the use of a traditional religious site by practitioners. Entities that are protected under NHPA should designate information falling under Section 304 of NHPA as confidential.

Dated: June 16, 2016.

Abigail Ross Hopper,

Director, Bureau of Ocean Energy Management.

[FR Doc. 2016–14830 Filed 6–23–16; 8:45 am]

BILLING CODE 4310–MR–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1007]

Certain Personal Transporters, Components Thereof, and Packaging and Manuals Therefor; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 18, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Segway, Inc. of Bedford, New Hampshire; DEKA Products Limited Partnership of Manchester, New Hampshire; and Ninebot (Tianjin) Technology Co., Ltd. of Tianjin, China. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain personal transporters, components thereof, and packaging and manuals therefor by reason of infringement of certain claims of U.S. Patent No. 6,302,230 ("the '230 patent"); U.S. Patent No. 6,651,763 ("the '763 patent"); U.S. Patent No. 7,023,330 ("the '330 patent"); U.S. Patent No. 7,275,607 ("the '607 patent"); U.S. Patent No. 7,479,872 ("the '872 patent"); U.S. Patent No. 9,188,984 ("the '984 patent"); U.S. Trademark Registration No. 2,727,948 ("the '948 trademark"); and U.S. Trademark Registration No. 2,769,942 ("the '942 trademark"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative a limited exclusion order, and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 17, 2016, *ordered that—*

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain personal transporters, components thereof, and packaging and manuals therefor by reason of infringement of one or more of claims 1, 3–5, and 7 of the '230 patent; claims 1–5 and 7 of the '763 patent; claims 1–3 and 5 of the '330 patent; claims 1–4 and 6 of the '607 patent; claims 1, 3–5, 10–12, and 17 of the '872 patent; and claims 1–3 and 5–20 of the '984 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(b) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain personal transporters, components thereof, and packaging and manuals therefor by reason of infringement of the '948 trademark and the '942 trademark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Segway, Inc., 14 Technology Drive,
Bedford, NH 03110

DEKA Products Limited Partnership,
340 Commercial Street, Suite 401,
Manchester, NH 03101

Ninebot (Tianjin) Technology Co., Ltd.,
Building 9, Jiasuqi, Tianrui Road,
Science and Technology Park Center,
Auto Industrial Park Wuqing, Tianjin,
China

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Inventist, Inc., 4901 NW Camas
Meadows Drive, Camas, WA 98607

PhunkeeDuck, Inc., 250 Jericho Turnpike, Floral Park, NY 11001

Razor USA LLC, 12723 166th Street, Cerritos, CA 90703

Swagway LLC, 3431 William Richardson Drive, Suite F, South Bend, IN 46628

Segaway, 3940 Laurel Canyon Boulevard #376, Studio City, CA 91604

Jetson Electric Bikes LLC, 175 Varick Street, New York, NY 10014

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14903 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–926]

Certain Marine Sonar Imaging Systems, Products Containing the Same, and Components Thereof; Notice of the Commission's Determination To Rescind a Limited Exclusion Order and Cease and Desist Orders

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to rescind a limited exclusion order prohibiting importation of infringing marine sonar imaging systems, products containing the same, and components thereof and cease and desist orders directed to the domestic respondents, based upon settlement.

FOR FURTHER INFORMATION CONTACT: Panyin A. Hughes, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–3042. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on August 21, 2014, based on a complaint filed by Johnson Outdoors Inc. of Racine, Wisconsin and Johnson Outdoors Marine Electronics, Inc. of Eufaula, Alabama (collectively, "Johnson Outdoors"). 79 *Fed. Reg.* 49536 (Aug. 21, 2014). The complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain marine sonar imaging systems, products containing the same, and components thereof by reason of infringement of one or more of claims 1, 2, 17, 25, 26, 31, 32, 35, 36, 41–43, 53, and 56 of U.S. Patent No. 7,652,952 ("the '952 patent"); claims 1, 5, 7, 8, 21, 22, 24, 25, 28, and 29 of U.S. Patent No. 7,710,825 ("the '825 patent"); and claims 14, 18, 21–23, 25, and 33 of U.S. Patent No. 7,755,974 ("the '974 patent"). *Id.* The notice of investigation named the following respondents: Garmin International, Inc.; Garmin North America, Inc.; Garmin USA, Inc. all of Olathe, Kansas; and Garmin Corporation of New Taipei City, Taiwan (collectively, "Garmin"). *Id.* The Office of Unfair Import Investigations was not a party to the investigation.

On July 13, 2015, the ALJ issued his final ID, finding a violation of section 337 by Garmin in connection with claims 14, 18, 21, 22, 23, and 33 of the '974 patent. The ID found no violation of section 337 in connection with the asserted claims of the '952 and '825 patents, and claim 25 of the '974 patent. On July 27, 2015, the parties filed petitions for review of the ID. On August 4, 2015, the parties filed responses to the petitions.

On August 25, 2015, the Commission determined to review the final ID on all issues petitioned. 80 *Fed. Reg.* 55872–74 (Sept. 17, 2015). On review, the Commission determined to affirm the ALJ's finding of violation of section 337 with respect to claims 14, 18, 21–23, and 33 of the '974 patent. 80 *Fed. Reg.* 73211–12 (Nov. 24, 2015). The Commission also determined to affirm the ID's finding of no violation of section 337 in connection with the asserted claims of the '952 patent, '825 patent, and claim 25 of the '974 patent. *Id.*

Having found a violation of section 337, the Commission determined that the appropriate form of relief was: (1) A limited exclusion order prohibiting the unlicensed entry of marine sonar imaging systems, products containing the same, and components thereof that infringe one or more of claims 14, 18, 21, 22, 23, and 33 of the '974 patent that are manufactured by, or on behalf of, or are imported by or on behalf of Garmin or any of its affiliated companies, parents, subsidiaries, agents, or other related business entities, or their successors or assigns; and (2) cease and desist orders prohibiting domestic respondents Garmin International, Inc.; Garmin North America, Inc.; and Garmin USA, Inc. from conducting any of the following activities in the United States: Importing, selling, marketing, advertising, distributing, transferring (except for exportation), and soliciting U.S. agents or distributors for, marine sonar imaging systems, products containing the same, and components thereof covered by claims 14, 18, 21, 22, 23 and 33 of the '974 patent. The proposed cease and desist orders included the following exemption: (1) If in a written instrument, the owner of the patents authorizes or licenses such specific conduct, or such specific conduct is related to the importation or sale of covered products by or for the United States.

On May 10, 2016, Johnson Outdoors and Garmin filed a joint petition under 19 U.S.C. 1337(k) and Commission rule 210.76(a) (19 CFR 210.76(a)) to rescind the remedial orders based upon settlement. The parties filed both confidential and public versions of the settlement agreements.

The Commission has determined to grant the petition. The limited exclusion order and cease and desist orders issued in this investigation are hereby rescinded.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 21, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–14997 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1010]

Certain Semiconductor Devices, Semiconductor Device Packages, and Products Containing Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 23, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Tessera Technologies, Inc. of San Jose, California; Tessera, Inc. of San Jose, California; and Invensas Corporation of San Jose, California. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain semiconductor devices, semiconductor device packages, and products containing same by reason of infringement of certain claims of U.S. Patent No. 6,856,007 ("the '007 patent"); U.S. Patent No. 6,849,946 ("the '946 patent"); and U.S. Patent No. 6,133,136 ("the '136 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 20, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain semiconductor devices, semiconductor device packages, and products containing same by reason of infringement of one or more of claims 13, 16, and 18 of the '007 patent; claims 16–20 and 22 of the '946 patent; and claims 1–3, 5, 6, 11–16, 24–27, 29, 30 and 33–35 of the '136 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Tessera Technologies, Inc., 3025 Orchard Parkway, San Jose, CA 95134
Tessera, Inc., 3025 Orchard Parkway, San Jose, CA 95134
Invensas Corporation, 3025 Orchard Parkway, San Jose, CA 95134

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Broadcom Limited, 1 Yishun Avenue 7, Singapore 768923
Broadcom Corporation, 5300 California Ave., Irvine, CA 92617
Avago Technologies Limited, 1 Yishun Avenue 7, Singapore 768923
Avago Technologies U.S. Inc., 1320 Ridder Park Drive, San Jose, CA 95131
Arista Networks, Inc., 5453 Great America Parkway, Santa Clara, CA 95054
ARRIS International plc, 3871 Lakefield Drive, Suwanee, GA 30024
ARRIS Group, Inc., 3871 Lakefield Drive, Suwanee, GA 30024
ARRIS Technology, Inc., 101 Tournament Drive, Horsham, PA 19044
ARRIS Enterprises LLC, 3871 Lakefield Drive, Suwanee, GA 30024
ARRIS Solutions, Inc., 3871 Lakefield Drive, Suwanee, GA 30024
Pace Ltd., Victoria Road, Saltaire, West Yorkshire BD18 3LF, England
Pace Americas, LLC, 3701 FAU Boulevard, Suite 200, Boca Raton, FL 33431
Pace USA, LLC, 3701 FAU Boulevard, Suite 200, Boca Raton, FL 33431
ASUSTeK Computer Inc., No. 15, Li-Te Road, Peitou, Taipei, Taiwan
ASUS Computer International, 800 Corporate Way, Fremont, CA 94539
Comcast Cable Communications, LLC, 1500 Market Street, Philadelphia, PA 19102
Comcast Cable Communications Management, LLC, 1701 John F Kennedy Blvd., Philadelphia, PA, 19103
Comcast Business Communications, LLC, 1701 John F Kennedy Blvd., Philadelphia, PA, 19103
HTC Corporation, 23 Xinghau Road, Taoyuan, 330, Taiwan
HTC America, Inc., 13920 SE Eastgate Way, Suite 200, Bellevue, WA 98005
NETGEAR, Inc., 350 East Plumeria Drive, San Jose, CA 95134

Technicolor S.A., 1–5, rue Jeanne d'Arc, 92130 Issy-Les-Moulineaux, France
Technicolor USA, Inc., 101 West 103rd Street, Indianapolis, IN 46290
Technicolor Connected Home USA LLC, 101 West 103rd Street, Indianapolis, IN 46290

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not be a party to this investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14948 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–470–471 and 731–TA–1169–1170 (Review)]

Coated Paper Suitable for High-Quality Print Graphics Using Sheet-Fed Presses From China and Indonesia; Scheduling of Full Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of full reviews pursuant to the Tariff Act of 1930 ("the Act") to determine whether revocation of the antidumping duty and countervailing duty orders on coated paper suitable for high-quality print graphics using sheet-fed presses from China and Indonesia would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. The Commission has determined to exercise its authority to extend the review period by up to 90 days.

DATES: *Effective Date:* June 17, 2016.

FOR FURTHER INFORMATION CONTACT: Andrew (Drew) Dushkes (202–205–3229), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these reviews may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On January 4, 2016, the Commission determined that responses to its notice of institution of the subject five-year reviews were such that full reviews should proceed (81 FR 1966, January 14, 2016); accordingly, full reviews are being scheduled pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)). A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements are available from the Office of the Secretary and at the Commission's Web site.

Participation in the reviews and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in these reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, by 45 days after publication of this notice. A party that filed a notice of appearance following publication of the Commission's notice of institution of the reviews need not file an additional notice of appearance. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made by 45 days after publication of this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the reviews. A party granted access to BPI following publication of the Commission's notice of institution of the reviews need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the reviews will be placed in the nonpublic record on October 11, 2016, and a public version will be issued thereafter, pursuant to section 207.64 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the reviews beginning at 9:30 a.m. on Thursday, October 27, 2016, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 20, 2016. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 26, 2016, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), 207.24, and 207.66 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party to the reviews may submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.65 of the Commission's rules; the deadline for filing is October 19, 2016. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.67 of the Commission's rules. The deadline for filing posthearing briefs is November 4, 2016. In addition, any person who has not entered an appearance as a party to the reviews may submit a written statement of information pertinent to the subject of the reviews on or before November 4, 2016. On November 30, 2016, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before December 2, 2016, but such final comments must not contain new factual information and must otherwise comply with section 207.68 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

The Commission has determined that these reviews are extraordinarily complicated and therefore has determined to exercise its authority to extend the review period by up to 90 days pursuant to 19 U.S.C.1675(c)(5)(B).

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.62 of the Commission's rules.

By order of the Commission.

Issued: June 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14947 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1009]

Certain Inflatable Products With Tensioning Structures and Processes for Making the Same; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on May 19, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Intex Recreation Corp. of Long Beach, California and Intex Marketing Ltd. of Tortola, British Virgin Islands. A supplement to the complaint was filed on June 1, 2016. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain inflatable products with tensioning structures and processes for making the same by reason of infringement of certain claims of U.S. Patent No. 8,562,773 ("the '773 patent") and U.S. Patent No. 9,156,203 ("the '203 patent"). The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2015).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on June 20, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain inflatable products with tensioning structures and processes for making the same by reason of infringement of one or more of claims 1–5 of the '773 patent and claims 1, 6–10, and 12–29 of the '203 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) Notwithstanding any Commission Rules that would otherwise apply, the presiding Administrative Law Judge shall hold an early evidentiary hearing, find facts, and issue an early decision, as to whether the complainant has satisfied the economic prong of the domestic industry requirement. Any such decision shall be in the form of an initial determination (ID). Petitions for review of such an ID shall be due five calendar days after service of the ID; any replies shall be due three business days after service of a petition. The ID will become the Commission's final determination 30 days after the date of service of the ID unless the Commission determines to review the ID. Any such review will be conducted in accordance with Commission Rules 210.43, 210.44, and 210.45, 19 CFR 210.43, 210.44, and 210.45. The Commission expects the issuance of an early ID relating to the economic prong of the domestic industry requirement within 100 days of

institution, except that the presiding ALJ may grant a limited extension of the ID for good cause shown. The issuance of an early ID finding that complainants do not satisfy the economic prong of the domestic industry requirement shall stay the investigation unless the Commission orders otherwise; any other decision shall not stay the investigation or delay the issuance of a final ID covering the other issues of the investigation.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Intex Recreation Corp., 4001 Via Oro Avenue, Long Beach, CA 90810
Intex Marketing Ltd., Wickham's Cay, P.O. Box 662, Road Town, Tortola, British Virgin Islands

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Bestway (USA), Inc., 3249 East Harbour Drive, Phoenix, AZ 85034
Bestway Global Holdings, Inc., No. 3065 Cao An Road, Shanghai 201812, China
Bestway (Hong Kong) International, Ltd., 66 Mody Road, Kowloon, Hong Kong
Bestway Inflatables & Materials Corporation, No. 3065 Cao An Road, Shanghai 201812, China
Bestway (Nantong) Recreation Corp., No. 8 Huimin West Road, Economic Development Zone, Rucheng Town, Nantong, Jiangsu 226503, China

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(4) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2016.

Lisa R. Barton,
Secretary to the Commission.

[FR Doc. 2016–14946 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–994]

Certain Portable Electronic Devices and Components Thereof; Notice of Commission Determination Not To Review an Initial Determination Granting Intervenor Status to Google, Inc.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination ("ID") (Order No. 5) granting intervenor status to Google Inc.

FOR FURTHER INFORMATION CONTACT: Robert Needham, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–5468. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 11, 2016, based on a complaint filed by Creative Technology Ltd. of Singapore and Creative Labs, Inc. of Milpitas, California (collectively, "Creative"). 81 *Fed. Reg.* 29307–08. The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation, sale for importation, and sale after importation of certain portable electronic devices and components thereof that infringe certain claims of U.S. Patent No. 6,928,433. *Id.* at 29307. The notice of investigation named as respondents ZTE Corporation of Guangdong, China; ZTE (USA) Inc. of Richardson, Texas; Sony Corporation of Tokyo, Japan; Sony Mobile Communications, Inc. of Tokyo, Japan; Sony Mobile Communications AB of Lund, Sweden; Sony Mobile Communications (USA), Inc. of Atlanta, Georgia; Samsung Electronics Co., Ltd. of Seoul, Republic of Korea; Samsung Electronics America, Inc. of Ridgefield Park, New Jersey; LG Electronics, Inc. of Seoul, Republic of Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, New Jersey; LG Electronics Mobilecomm U.S.A. Inc. of San Diego, California; Lenovo Group Ltd. of Beijing, China; Lenovo (United States) Inc. of Morrisville, North Carolina; Motorola Mobility LLC of Chicago, Illinois; HTC Corporation of Taiwan; HTC America, Inc. of Bellevue, Washington; Blackberry Ltd. of Waterloo, Ontario, Canada; and Blackberry Corporation of Irving, Texas. *Id.* at 29307–08. The notice also named the Office of Unfair Import Investigations as a party. *Id.* at 29308.

On May 13, 2016, Google Inc. ("Google") moved to intervene as a party in the investigation on the grounds that Creative's allegations involve the functionality of Google's Play Music application, and Google has an interest in defending its application. On May 19, 2016, the Commission Investigative Attorney filed a response supporting Google's Motion. Creative stated that it would not respond to the motion, and no other responses were filed.

On May 19, 2016, the ALJ granted the motion and issued the subject ID. He found that the motion complied with 19 CFR 210.19 and Federal Rule of Civil Procedure 24, and thus granted Google intervenor status will full participation rights as a party. No petitions for review of the subject ID were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: June 21, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–14995 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–550 and 731–TA–1304–1305 (Final)]

Iron Mechanical Transfer Drive Components From Canada and China; Scheduling of the Final Phase of Countervailing Duty and Antidumping Duty Investigations

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping and countervailing duty investigation Nos. 701–TA–550 and 731–TA–1304–1305 (Final) pursuant to the Tariff Act of 1930 ("the Act") to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of certain iron mechanical transfer drive components from Canada and China, provided for in subheadings 8483.30.80, 8483.50.60, 8483.50.90, 8483.90.30, and 8483.90.80 of the Harmonized Tariff Schedule of the United States[1] and preliminarily determined by the Department of Commerce to be subsidized by the government of China and sold at less-than-fair-value.[2]

DATES: Effective Date: June 8, 2016.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of these investigations is being scheduled pursuant to sections 705(b) and 731(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b) and 1673d(b)), as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of iron mechanical transfer drive components, and that such products imported from China and Canada are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in petitions filed on October 28, 2015, by TB Wood's Incorporated, Chambersburg, Pennsylvania.

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Participation in the investigations and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the

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[1] Covered merchandise may also enter under the following HTSUS subheadings: 7325.10.00, 7325.99.10, 7326.19.00, 8431.31.00, 8431.39.00, and 8483.50.40.

[2] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as iron mechanical transfer drive components, whether finished or unfinished (*i.e.*, blanks or castings). Subject iron mechanical transfer drive components are in the form of wheels or cylinders with a center bore hole that may have one or more grooves or teeth in their outer circumference that guide or mesh with a flat or ribbed belt or like device and are often referred to as sheaves, pulleys, flywheels, flat pulleys, idlers, conveyer pulleys, synchronous sheaves, and timing pulleys. The products covered by these investigations also include bushings, which are iron mechanical transfer drive components in the form of a cylinder and which fit into the bore holes of other mechanical transfer drive components to lock them into drive shafts by means of elements such as teeth, bolts, or screws. Iron mechanical transfer drive components subject to these investigations are those not less than 4.00 inches (101 mm) in the maximum nominal outer diameter. Unfinished iron mechanical transfer drive components (*i.e.*, blanks or castings) possess the approximate shape of the finished iron mechanical transfer drive component and have not yet been machined to final specification after the initial casting, forging or like operations. These machining processes may include cutting, punching, notching, boring, threading, mitering, or chamfering. Subject merchandise includes iron mechanical transfer drive components as defined above that have been finished or machined in a third country, including but not limited to finishing/machining processes such as cutting, punching, notching, boring, threading, mitering, or chamfering, or any other processing that would not otherwise remove the merchandise from the scope of the investigations if performed in the country of manufacture of the iron mechanical transfer drive components. Subject iron mechanical transfer drive components are covered by the scope of the investigations regardless of width, design, or iron type (*e.g.*, gray, white, or ductile iron). Subject iron mechanical transfer drive components are covered by the scope of the investigations regardless of whether they have non-iron attachments or parts and regardless of whether they are entered with other mechanical transfer drive components or as part of a mechanical transfer drive assembly (which typically includes one or more of the iron mechanical transfer drive components identified above, and which may also include other parts such as a belt, coupling and/or shaft). When entered as a mechanical transfer drive assembly, only the iron components that meet the physical description of covered merchandise are covered merchandise, not the other components in the mechanical transfer drive assembly (*e.g.*, belt, coupling, shaft). For purposes of these investigations, a covered product is of "iron" where the article has a carbon content of 1.7 percent by weight or above, regardless of the presence and amount of additional alloying elements.

Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on October 4, 2016, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on Tuesday, October 18, 2016, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 12, 2016. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on October 17, 2016, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 11, 2016. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 25, 2016. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petitions, on or before October 25, 2016. On November 10, 2016, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 14, 2016, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *http://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: June 21, 2016.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2016–14977 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1008]

Certain Carbon Spine Board, Cervical Collar, CPR Masks and Various Medical Training Manikin Devices, and Trademarks, Copyrights of Product Catalogues, Product Inserts and Components Thereof; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 21, 2016, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Laerdal Medical Corp. of Wappingers Falls, New York and Laerdal Medical AS of Stavanger, Norway. An amended complaint was filed on May 18, 2016. A supplement to the amended complaint was filed on June 7, 2016. The complaint, as amended and supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain carbon spine board, cervical collar, CPR masks and various medical training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,090,058 ("the '058 patent"); certain claims of U.S. Patent No. 6,170,486 ("the '486 patent"); U.S. Copyright Registration No. VA 1–879–023 ("the '023 copyright"); U.S. Copyright Registration No. VA 1–879–026 ("the '026 copyright"), U.S. Trademark Registration No. 3,735,147 ("the '147 trademark"); and U.S. Trademark Registration No. 3,476,656 ("the '656 trademark"), and that an industry in the United States exists as required by section (a)(2) of section 337. The amended complaint further alleges violations of section 337 based upon the importation into the United States, or in the sale of certain carbon spine board, cervical collar, CPR masks and various medical training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components thereof by reason of common law trademark infringement and trade dress misappropriation and infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States.

The complainants request that the Commission institute an investigation and, after the investigation, issue a general exclusion order, or in the alternative, a limited exclusion order and cease and desist orders.

ADDRESSES: The amended complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the

Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2016).

Scope of Investigation: Having considered the complaint, as amended, the U.S. International Trade Commission, on June 20, 2016, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) Whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, or in the sale of certain carbon spine board, cervical collar, CPR masks and various medical training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components thereof by reason of trade dress misappropriation and infringement, the threat or effect of which is to destroy or substantially injure an industry in the United States;

(b) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain carbon spine board, cervical collar, CPR masks and various medical training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components thereof by reason of infringement of one or more of claim 1 of the '058 patent; the '023 copyright; and the '026 copyright, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(c) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain carbon spine board, cervical collar, CPR masks and various medical training manikin devices, and trademarks, copyrights of product catalogues, product inserts and components thereof by reason of infringement of the '656 trademark, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are:

Laerdal Medical Corp., 167 Myers Corners Road, Wappingers Falls, NY 12590

Laerdal Medical AS, 30 Tanke Svilandsgate, Stavanger, Norway N–4002

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the amended complaint is to be served:

Shanghai Evenk International Trading Co., Ltd., Aijia International Building, #288 Wuhua Road, Bldg. No. 1, 5th Floor, Shanghai, China, 200086

Shanghai Honglian Medical Instrument, Development Co., Ltd., Aijia International Building, #288 Wuhua Road, Bldg. No. 1, 5th Floor, Shanghai, China, 200086

Shangahi Jolly Medical Education Co., Ltd., # 8 Jinting Road, Pudong New Area, Shanghai, China 201323

Zhangjiagang Xiehe Medical Apparatus & Instruments Co., Ltd., FuGang Building, #6B RenMin Street, Zhangjiagang City, Jiangsu, China 215600

Zhangjiagang New Fellow Med Co., Ltd., Sanxing Wukesong Road, Jinfeng Town, Zhangjiagang City, Jiangsu Province, China 215624

Jiangsu Yongxin Medical Equipment Co., Ltd., 204 New State Road, Leyu Town, Zhangjiagang City, Jiangsu Province, China 2156000

Jiangsu Yongxin Medical-Use Facilities Making, Co., Ltd., 204 New State Road, Leyu Town, Zhangjiagang City, Jiangsu Provice, China 2156000

Jiangyin Everise Medical Devices Co., Ltd., No. 1001 Chengyang Road, Jiangyin City, Jiangsu, China 214423

Medsource International Co., Ltd. and Medsource Factory, Inc., No. 1703 Building 11#, Lane 225, Jinxiang Road, PuDong, China 201206

Basic Medical Supply, LLC, 19902 Flax Flower Drive, Richmond, TX 77407

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the amended complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the amended complaint and the notice of investigation. Extensions of time for submitting responses to the amended complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the amended complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the amended complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the amended complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: June 20, 2016.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2016–14909 Filed 6–23–16; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Resource Conservation and Recovery Act

On June 20, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the Northern District of Georgia in the lawsuit entitled *United States and State of Georgia* v. *Metal Conversion Technologies, LLC, et al.,* Civil Action No. 4:16–cv–00168–HLM.

The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), and the State of Georgia on behalf of the Environmental Protection Division of the Georgia Department of Natural Resources, ("State") (collectively, "Plaintiffs), filed a complaint against Metal Conversion Technologies, LLC, John Patterson, and 1 Porter Street, LLC ("Defendants") pursuant to the Solid Waste Disposal Act ("SWDA"), as amended by the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. 6901 *et seq.* and the Georgia Comprehensive Solid Waste Management Act, O.C.G.A. §§ 12–8–24 *et seq.* The complaint state eight claims for relief: Failure to make hazardous waste determinations; transportation, manifest, and packaging violations; failure to comply with land disposal restrictions applicable to hazardous waste; failure to obtain a permit for operation of a hazardous waste treatment, storage, and disposal facility; failure to obtain a permit for operation of a universal waste destination facility; failure to comply with universal waste handler regulations; failure to comply with record retention requirements; and failure to comply with the Georgia Comprehensive Solid Waste Management Act. The proposed consent decree requires the Defendants to pay a $25,000 civil penalty and perform injunctive relief to determine the extent of and remediate any disposals of hazardous waste. In return, the United States and State of Georgia agree not to sue for the claims alleged in the complaint.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Georgia* v. *Metal Conversion Technologies, LLC,* D.J. Ref. No. 90–7–1–10141. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $25.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $19.75.

Jeffrey Sands,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–15013 Filed 6–23–16; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF JUSTICE

[Docket No. OLP 158]

Notice of Public Comment Period on the Presentation of the Forensic Science Discipline Review Framework

AGENCY: Department of Justice.

ACTION: Notice.

SUMMARY: This notice announces the opening of the public comment period on the Forensic Science Discipline Review (FSDR) of testimony draft methodology.

DATES: Written public comment regarding the draft methodology should be submitted through *www.regulations.gov* before August 1, 2016.

FOR FURTHER INFORMATION CONTACT: The Office of Legal Policy, 950 Pennsylvania Avenue NW., Washington, DC 20530, by phone at 202–514–4601 or via email at *FSDR.OLP@usdoj.gov.*

SUPPLEMENTARY INFORMATION:

The goal of the Forensic Science Discipline Review (FSDR) of testimony is to advance the use of forensic science in the courtroom by understanding its use in recent cases and to facilitate any necessary steps to ensure that expert forensic testimony is consistent with scientific principles and just outcomes. In order to accomplish this goal, the Department is planning a Department-level review of forensic testimony by Department personnel beginning with an examination of FBI testimony. The Department proposes to review and evaluate trial testimony provided by FBI forensic examiners in several forensic disciplines in state and federal cases for a five-year period (2008–2012). All cases in which an FBI examiner testified in these disciplines—and for which a transcript can be obtained—are proposed to be reviewed. Which disciplines will be reviewed and the order in which disciplines will be reviewed has not been determined, in part because the development of the FSDR testimonial standards, against which the testimony of Department personnel will be compared, is ongoing.

The Department is undertaking this review because it is good management to conduct macro-level program reviews and not because of known or suspected problems with particular forensic science disciplines. The draft methodology proposes specific methodological decisions to evaluate testimony and seeks comment on additional issues. All elements in the draft methodology are subject to revision and comment is invited.

Posting of Public Comments: To ensure proper handling of comments, please reference "Docket No. OLP 158" on all electronic and written correspondence. The Department encourages all comments on this draft methodology be submitted electronically through *www.regulations.gov* using the electronic comment form provided on that site. Paper comments that duplicate the electronic submission are not necessary as all comments submitted to *www.regulations.gov* will be posted for public review and are part of the official docket record.

In accordance with the Federal Records Act, please note that all comments received are considered part of the public record, and shall be made available for public inspection online at *www.regulations.gov.* The comments to be posted may include personally identifiable information (such as your name, address, etc.) and confidential business information voluntarily submitted by the commenter.

DOJ will post all comments received on *www.regulations.gov* without making any changes to the comments or redacting any information, including any personally identifiable information provided. It is the responsibility of the commenter to safeguard personally identifiable information. You are not required to submit personally identifying information in order to comment on this presentation DOJ recommends that commenters not include personally identifiable information such as Social Security Numbers, personal addresses, telephone numbers, and email addresses that they do not want made public in their comments as such submitted information will be available to the public via *www.regulations.gov.* Comments submitted through *www.regulations.gov* will not include the email address of the commenter unless the commenter chooses to include that information as part of his or her comment.

Dated: June 21, 2016.

Kira Antell,

Senior Counsel, Office of Legal Policy.

[FR Doc. 2016–14975 Filed 6–23–16; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Amended Consent Decree Under the Clean Air Act

On June 15, 2016, the Department of Justice lodged a proposed Amended Consent Decree with the United States District Court for the Eastern District of Michigan in the lawsuit entitled *United States* v. *City of Wyandotte,* Civil Action No. 11–cv–12181.

In 2011, the United States entered into a Consent Decree with the City of Wyandotte ("Wyandotte") to resolve allegations under the Clean Air Act that Wyandotte's coal-fired electric generating Units 7 and 8 violated the emissions limits set forth in Wyandotte's Title V permit, its Prevention of Significant Deterioration permit, the New Source Performance Standards, and the federally enforceable Michigan State Implementation Plan. After entry of the Consent Decree, Wyandotte violated several provisions of the original Consent Decree, including failing to submit required reports. Additionally, Wyandotte made some operational changes. Under the proposed Amended Consent Decree, Wyandotte will pay $425,000 in stipulated penalties, restrict Unit 7 to burning only natural gas, and retire Unit 8.

The publication of this notice opens a period for public comment on the Amended Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *City of Wyandotte,* D.J. Ref. No. 90–5–2–1–09346. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Amended Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Amended Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $14.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Randall M. Stone,

Acting Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2016–15022 Filed 6–23–16; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0030]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection: Capital Punishment Report of Inmates Under Sentence of Death

AGENCY: Bureau of Justice Statistics, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 23, 2016.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Tracy L. Snell, Statistician, Bureau of Justice Statistics, 810 Seventh Street NW., Washington, DC 20531 (email: *Tracy.L.Snell@usdoj.gov;* telephone: 202–616–3288).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Statistics, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *The Title of the Form/Collection:* Capital Punishment Report of Inmates Under Sentence of Death.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form numbers for the questionnaire are NPS–8 (Report of Inmates Under Sentence of Death; NPS–8A (Update Report of Inmates Under Sentence of Death); NPS–8B (Status of Death Penalty Statutes—No Statute in Force); and NPS–8C (Status of Death Penalty Statutes—Statute in Force). The applicable component within the Department of Justice is the Bureau of Justice Statistics, in the Office of Justice Programs.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Respondents will be staff from state departments of correction, state Attorneys General, and the Federal Bureau of Prisons. Staff responsible for keeping records on inmates under sentence of death in their jurisdiction and in their custody are asked to

provide information for each individual under sentence of death for the following characteristics: Condemned inmates' demographic characteristics, legal status at the time of capital offense, capital offense for which imprisoned, number of death sentences imposed, criminal history information, reason for removal and current status if no longer under sentence of death, method of execution, and cause of death by means other than execution. Personnel in the offices of each Attorney General are asked to provide information regarding the status of death penalty laws and any changes to the laws enacted during the reference year. The Bureau of Justice Statistics uses this information in published reports and in responding to queries from the U.S. Congress, Executive Office of the President, the U.S. Supreme Court, state officials, international organizations, researchers, students, the media, and others interested in criminal justices statistics.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 74 responses at 30 minutes each for the NPS–8; 2,979 responses at 30 minutes for the NPS–8A; and 52 responses at 15 minutes each for the NPS–8B and NPS–8C. The 42 NPS–8/8A respondents and 52 NPS–8B/8C respondents have the option to provide responses using either paper or Web-based questionnaires. The burden estimate is based on feedback from respondents in the most recent data collection.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There is an estimated 1,539.5 total burden hours associated with this collection. If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: June 21, 2016.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2016–14959 Filed 6–23–16; 8:45 am]

BILLING CODE 4410–18–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish a notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by July 25, 2016. This application may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Division of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, at the above address or *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), as amended by the Antarctic Science, Tourism and Conservation Act of 1996, has developed regulations for the establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas a requiring special protection. The regulations establish such a permit system to designate Antarctic Specially Protected Areas.

Application Details

1. *Applicant*—Permit Application: 2017–003
   Robert Ferl, University of Florida, Gainesville, FL

Activity for Which Permit Is Requested

Introduce non-indigenous species into Antarctica. The applicant plans to bring plant seeds from the species *Arabidopsis thaliana* to Antarctica in a sealed container that will be launched as part of a Long Duration Balloon (LDB) payload in order to expose the seeds to radiation available at high altitude and high latitudes. The acrylic/resin seed containment vessel will be sealed before leaving the USA and will not be reopened until it is returned. The containment vessel has been tested to −80 °C for structural and seal stability and drop tested to >15 g. The containment vessel will be secured within a 10 cm cubesat and then bolted to the balloon gondola prior to launch of the balloon. The seed containment vessel will be recovered along with the balloon payload and returned to the USA and the home institution.

Location

Ross Ice Shelf, Long Duration Balloon program launch and recovery sites, Antarctica.

Dates

October 15, 2016–March 15, 2019.

2. *Applicant*—Permit Application: 2017–005
   David Ainley, H.T. Harvey & Associates, 983 University Avenue, Bldg D, Los Gatos, CA 95032.

Activity for Which Permit Is Requested

Take, Enter Antarctic Specially Protected Areas (ASPA), Import into USA. The applicant plans to enter ASPAs 121 (Cape Royds), 124 (Cape Crozier), and 105 (Beaufort Island) to study how Adelie penguins adapt to, or cope with, environmental change. The annual research activities include: Observing penguins; marking (n = 1200) and measuring (n = 200) nests; marking penguins with RFID tags (n = 30 adults & 60 chicks) and flipper bands (n = 700 chicks); applying (and removing) special instruments (TDRs [n = 90 adults], SPOT satellite tags, GLS tags [n = 200] adults); and taking small feather samples for DNA-based sex determination (n = 300 adults & 700 chicks). The applicant would also weigh and measure adults (n = 200) and chicks (n = 1000). Access to the ASPAs would be by foot once in the proximity (by way of helicopter or boats). Camping will be at established sites, except for Beaufort Island which will only be a few day-visits each year. The applicant will also be working at Cape Bird, but will be outside the boundary of the ASPA there. The applicant will maintain a webcam (PenguinCam) positioned slightly inside the Cape Royds ASPA boundary.

Location

ASPA 121, Cape Royds; ASPA 124, Cape Crozier; ASPA 105, Beaufort Island; Cape Bird (outside ASPA boundary).

Dates

October 15, 2016–February 5, 2020.

Nadene G. Kennedy,

Polar Coordination Specialist, Division of Polar Programs.

[FR Doc. 2016–14961 Filed 6–23–16; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of a meeting for the transaction of National Science Board business, as follows:

DATE AND TIME: Wednesday, June 20, 2016 at 2:00–3:00 p.m., EDT.

SUBJECT MATTER: NSB Chair's opening remarks; NSF remarks; discussion and Board action regarding the project budget for NEON; NSB Chair's closing remarks.

STATUS: Closed.

This meeting will be held by teleconference originating at the National Science Board Office, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Please refer to the National Science Board Web site (*www.nsf.gov/nsb*) for information or schedule updates, or contact: Ronald Campbell, (*jrcampbe@nsf.gov*), National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Chris Blair,
Executive Assistant to the NSB Office.

[FR Doc. 2016–15150 Filed 6–22–16; 4:15 pm]

BILLING CODE 7555–01–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 56 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–154, CP2016–217.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–14942 Filed 6–23–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 227 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–156, CP2016–219.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–14943 Filed 6–23–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 226 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–153, CP2016–216.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–14944 Filed 6–23–16; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* June 24, 2016.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 17, 2016, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add First-Class Package Service Contract 57 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2016–155, CP2016–218.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2016–14941 Filed 6–23–16; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Form 18–K; SEC File No. 270–108, OMB Control No. 3235–0120.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Form 18–K (17 CFR 249.318) is an annual report form used by foreign governments or political subdivisions of foreign governments with securities listed on a United States exchange. The information to be collected is intended to ensure the adequacy and public availability of information available to investors. The information provided is mandatory. Form 18–K is a public document. We estimate that Form 18–K takes approximately 8 hours to prepare and is filed by approximately 35 respondents for a total annual reporting burden of 280 hours (8 hours per response × 35 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 20, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14930 Filed 6–23–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78104; File No. SR–BATS–2016–16]

Self-Regulatory Organizations; BATS Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1, 2, and 3, To List and Trade Shares of the Pointbreak Diversified Commodity Strategy Fund of the Pointbreak ETF Trust Under BATS Rule 14.11(i), Managed Fund Shares

June 20, 2016.

I. Introduction

On March 7, 2016, BATS Exchange, Inc. (“Exchange” or “BATS”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange Act”) [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares (“Shares”) of the Pointbreak Diversified Commodity Strategy Fund (“Fund”) of the Pointbreak ETF Trust (“Trust”) under BATS Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on March 22, 2016.[3] On April 8, 2016, the Exchange filed Amendment No. 1 to the proposed rule change, and on April 14, 2016, the Exchange filed Amendment No. 2 to the proposed rule change.[4] On May 5, 2016, pursuant to Section 19(b)(2) of the Act,[5] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[6] On June 17, 2016, the Exchange filed Amendment No. 3 to the proposed rule change.[7] The Commission received no comments on the proposed rule change. This order grants approval of the proposed rule change, as modified by Amendment Nos. 1, 2, and 3.

II. The Exchange's Description of the Proposal

The Exchange proposes to list and trade the Shares under BATS Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust. According to the Exchange, the Trust is registered with the Commission as an open-end investment company.[8] Pointbreak Advisers LLC will be the investment adviser (“Adviser”) [9] to the Fund.[10] Brown Brothers Harriman & Co. will be the administrator, custodian, and transfer agent for the Trust and ALPS Distributors, Inc. will serve as the distributor for the Trust.[11]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 77379 (March 16, 2016), 81 FR 15387 (“Notice”).

[4] In Amendment No. 1, which replaced the original filing in its entirety, the Exchange: (1) Changed the name of the Fund from “Pointbreak Diversified Commodity Fund” to “Pointbreak Diversified Commodity Strategy Fund”; (2) clarified that the Fund will invest in Commodity Futures through the Subsidiary and invest in Cash Instruments both directly and through the Subsidiary; (3) provided additional clarification and specificity regarding the instruments in which the Fund may invest; (4) provided additional clarification regarding the investment restrictions of the Fund; (5) clarified how certain investments will be valued for computing the Fund's net asset value (“NAV”); (6) clarified where price information can be obtained for certain investments of the Fund; (7) clarified that all statements and representations made in the filing regarding the description of the portfolio, limitations on portfolio holdings or reference assets, or the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange; (8) stated that the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements, and if the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12; and (9) made other technical amendments. Amendment No. 1 is available at *http://www.sec.gov/comments/sr-bats-2016-16/bats201616-1.pdf.* In Amendment No. 2, the Exchange clarified where price information can be obtained for certain investments of the Fund. Amendment No. 2 is available at *http://www.sec.gov/comments/sr-bats-2016-16/bats201616-2.pdf.* Because Amendment Nos. 1 and 2 do not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment Nos. 1 and 2 are not subject to notice and comment.

[5] 15 U.S.C. 78s(b)(2).

[6] *See* Securities Exchange Act Release No. 77770, 81 FR 29311 (May 11, 2016). The Commission designated June 20, 2016 as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[7] In Amendment No. 3, the Exchange provided additional information regarding the creation and redemption process, and made certain technical amendments. Amendment No. 3 is available at *https://www.sec.gov/rules/sro/bats.shtml.* Because Amendment No. 3 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 3 is not subject to notice and comment.

[8] The Exchange states that the Trust has filed a registration statement on behalf of the Fund with the Commission. *See* Registration Statement on Form N–1A for the Trust, dated December 23, 2015 (File Nos. 333–205324 and 811–23068) (“Registration Statement”). The Exchange states that the Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (“1940 Act”). *See* Investment Company Act Release No. 32064 (April 4, 2016) (File No. 812–14577).

[9] The Exchange states that prior to listing on the Exchange, the Adviser will be registered as a Commodity Pool Operator and will become a member of the National Futures Association (“NFA”), and that the Fund and its Subsidiary will be subject to regulation by the Commodity Futures Trading Commission and NFA and additional disclosure, reporting, and recordkeeping rules imposed upon commodity pools.

[10] The Exchange states that the Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer. In the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition of and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding the portfolio.

[11] Additional information regarding the Trust, the Fund, and the Shares, including investment

Continued

A. The Fund's Investments

According to the Exchange, the Fund is an actively managed exchange-traded fund ("ETF") that seeks to provide total return that exceeds that of the Solactive Diversified Commodity Index ("Benchmark") over time. The Fund is not an index tracking ETF and is not required to invest in the specific components of the Benchmark, and the Fund can have a higher or lower exposure to any component within the Benchmark at any time and may invest in other commodity-linked instruments as well. However, the Exchange represents that the Fund will generally seek to maintain a portfolio of instruments similar to those included in the Benchmark and will seek exposure to commodities included in the Benchmark.[12] The Benchmark is a rules-based index composed of futures contracts on the following 16 commodities: Aluminum, Brent crude oil, cocoa, copper, corn, gold, heating oil, live cattle, natural gas, Reformulated Gasoline Blendstock for Oxygen Blending gasoline, silver, soybeans, sugar #11, wheat, WTI light crude oil, and zinc. The Exchange states that the Benchmark will seek to select the contract month for each specific commodity among the next 13 months that display the most backwardation or the least contango and will not attempt to always own those contracts that are closest to expiration.

According to the Exchange, under normal circumstances,[13] the Fund will invest in Commodity Futures (as defined below) through the Subsidiary and Cash Instruments (as defined below) both directly through the Fund and through the Subsidiary. Commodity Futures include only exchange-traded futures on commodities and exchange-traded futures contracts on commodity indices. Cash Instruments include only: (i) Short-term obligations issued by the U.S. Government; (ii) cash and cash-like instruments; [14] (iii) money market mutual funds; and (iv) repurchase agreements.[15] Cash Instruments would provide liquidity, serve as margin, or collateralize the Subsidiary's investments in Commodity Futures. The Fund will not invest in Cash Instruments that are below investment-grade.

The Exchange states that the Fund generally will not invest directly in Commodity Futures and expects to gain exposure to Commodity Futures by investing a portion of its assets in the Subsidiary.[16] The Fund's investment in the Subsidiary is intended to provide the Fund with exposure to commodity markets in accordance with applicable rules and regulations. The Subsidiary has the same investment objective and investment restrictions as the Fund. The Fund will generally invest up to 25% of its total assets in the Subsidiary.

The Exchange represents that during times of adverse market, economic, political, or other conditions, the Fund may depart temporarily from its principal investment strategies (such as by maintaining a significant uninvested cash position) for defensive purposes. The Exchange states that doing so could help the Fund avoid losses, but may mean lost investment opportunities, and that during these periods, the Fund may not achieve its investment objective.

The Fund intends to qualify each year as a regulated investment company under the Internal Revenue Code.

B. The Fund's Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser [17] under the 1940 Act. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include assets subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

Aside from the Fund's investments in the Subsidiary, neither the Fund nor the Subsidiary will invest in non-U.S. equity securities. Neither the Fund nor the Subsidiary will invest in derivatives other than Commodity Futures.

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[18] In particular, the Commission finds that

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strategies, risks, creation and redemption procedures, fees, portfolio holdings, disclosure policies, calculation of the NAV, distributions, and taxes, among other things, can be found in Amendment Nos. 1, 2, and 3, and the Registration Statement, as applicable. *See* Amendment Nos. 1 and 2, *supra* note 4; Amendment No. 3, *supra* note 7; and Registration Statement, *supra* note 8.

[12] The Fund will generally obtain its exposure to commodity markets via investments in a wholly-owned subsidiary organized under the laws of the Cayman Islands ("Subsidiary"). References to the investments of the Fund include investments of the Subsidiary to which the Fund gains indirect exposure.

[13] According to the Exchange, the term "under normal circumstances" includes, but is not limited to, the absence of extreme volatility or trading halts in the futures markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[14] Cash-like instruments include only the following: Short-term negotiable obligations of commercial banks, fixed-time deposits, bankers acceptances of U.S. banks and similar institutions, and commercial paper rated at the date of purchase "Prime-1" by Moody's Investors Service, Inc. or "A–1+" or "A–1" by Standard & Poor's or, if unrated, of comparable quality, as the Adviser determines.

[15] According to the Exchange, the Fund follows certain procedures designed to minimize the risks inherent in repurchase agreements. Such procedures include effecting repurchase transactions only with large, well-capitalized, and well-established financial institutions whose condition will be continually monitored by the Adviser. The Exchange represents that it is the current policy of the Fund not to invest in repurchase agreements that do not mature within seven days if any such investment, together with any other illiquid assets held by the Fund, amount to more than 15% of the Fund's net assets. The Exchange states that the investments of the Fund in repurchase agreements, at times, may be substantial when, in the view of the Adviser, liquidity or other considerations so warrant.

[16] The Exchange states that the Subsidiary is not registered under the 1940 Act and is not directly subject to its investor protections, except as noted in the Registration Statement. However, according to the Exchange, the Subsidiary is wholly-owned and controlled by the Fund and is advised by the Adviser. Therefore, because of the Fund's ownership and control of the Subsidiary, the Subsidiary would not take action contrary to the interests of the Fund or its shareholders. The Fund's Board of Trustees has oversight responsibility for the investment activities of the Fund, including its expected investment in the Subsidiary, and the Fund's role as the sole shareholder of the Subsidiary. The Adviser receives no additional compensation for managing the assets of the Subsidiary. The Exchange states that the Subsidiary will also enter into separate contracts for the provision of custody, transfer agency, and accounting agent services with the same or with affiliates of the same service providers that provide those services to the Fund.

[17] The Exchange states that, in reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[18] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with Section 6(b)(5) of the Exchange Act,[19] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[20] which sets forth Congress's finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for, and transactions in, securities.

According to the Exchange, quotation and last sale information for the Shares will be available on the facilities of the Consolidated Tape Association ("CTA"), and the previous day's closing price and trading volume information for the Shares will be generally available daily in the print and online financial press. Also, daily trading volume information for the Fund will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. Additionally, information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services.

In addition, the Intraday Indicative Value[21] (as defined in BATS Rule 14.11(i)(3)(C)) will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[22] On each business day, before commencement of trading in the Shares during Regular Trading Hours on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio (as defined in BATS Rule 14.11(i)(3)(B))[23] that will form the basis for the Fund's calculation of NAV at the end of the business day.[24] The Web site for the Fund will also include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

Intraday price quotations on Cash Instruments of the type held by the Fund, with the exception of money market mutual funds, are available from major broker-dealer firms and from third-parties, which may provide prices free with a time delay, or "live" with a paid fee. For Commodity Futures, such intraday pricing information is available directly from the applicable listing exchange. Price information for money market mutual funds will be available from the applicable investment company's Web site.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Further, trading in the Shares will be subject to BATS Rules 11.18 and 14.11(i)(4)(B)(iv), which set forth circumstances under which trading in Shares of the Fund may be halted. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the Commodity Futures and other assets composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. The Reporting Authority that provides the Disclosed Portfolio must implement and maintain, or be subject to, procedures designed to prevent the use and dissemination of material, non-public information regarding the actual components of the portfolio.[25] The Exchange represents that it prohibits the distribution of material, non-public information by its employees. The Exchange states that the Adviser is not a registered broker-dealer and is not affiliated with a broker-dealer, and that in the event that (a) the Adviser becomes a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a broker-dealer or becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition of and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.[26]

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares, and such surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws.

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[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[21] According to the Exchange, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio (as defined below). The Exchange states that quotations of certain of the Fund's holdings may not be updated for purposes of calculating Intraday Indicative Value during U.S. trading hours where the market on which the underlying asset is traded settles prior to the end of the Exchange's Regular Trading Hours. The Exchange's Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

[22] The Exchange notes that several major market data vendors display and/or make widely available Intraday Indicative Values published via the CTA or other data feeds.

[23] The Disclosed Portfolio will include for each portfolio holding, as applicable: Ticker symbol or other identifier, a description of the holding, identity of the asset upon which the derivative is based, the quantity of each security or other asset held as measured by select metrics, maturity date, coupon rate, effective date, market value and percentage weight of the holding in the portfolio. The Web site and information will be publicly available at no charge.

[24] The NAV of the Fund will generally be determined at 4:00 p.m. Eastern Time each business day when the Exchange is open for trading. The Fund intends to require all creation and redemption requests to be received no later than 10:30 a.m. Eastern Time ("cutoff time") in order to create or redeem Shares based on that day's NAV. In support of this early cutoff time, the Exchange represents that the early cutoff time will provide the Fund with certainty as to whether to buy or sell certain Commodity Futures in advance of their settlement times, which should help to minimize the difference between the price used to calculate the NAV and the price at which the Fund is able to buy or sell the Commodity Futures. The Exchange also represents that the early cutoff time will provide authorized participants and market makers with certainty regarding the prices that will be used for calculating the NAV and that they will be able to transact at those prices, which should assist authorized participants and market makers to efficiently hedge their positions. Moreover, the Exchange represents that the early cutoff time should not significantly interfere with the arbitrage mechanism because authorized participants and market makers will continue to be able to hedge their positions in the Fund by investing directly in Commodity Futures as trading in these Commodity Futures continues after the settlement time. Finally, the Exchange represents that although the authorized participants and market makers that accumulate positions after the cutoff time may take on risk or additional costs to the extent they have to hold part or all of their positions overnight, the risk or additional costs do not generally interfere with the arbitrage mechanism. *See* Amendment No. 3, *supra* note 7.

[25] *See* BATS Rule 14.11(i)(4)(B)(ii)(b).

[26] The Exchange represents that an investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940.

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. In support of this proposal, the Exchange has made the following representations:

(1) The Shares will be subject to BATS Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) The Exchange may obtain information regarding trading in the Shares and the underlying futures, including futures contracts held by the Subsidiary, via the Intermarket Surveillance Group ("ISG") from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine.

(4) All of the futures contracts in the Disclosed Portfolio for the Fund (including those held by the Subsidiary) will trade on markets that are a member or affiliate of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

(5) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in creation units (and that Shares are not individually redeemable); (b) BATS Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and Disclosed Portfolio are disseminated; (d) the risks involved in trading the Shares during the Pre-Opening and After Hours Trading Sessions (as defined in the Exchange's rules) when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information.

(6) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 under the Exchange Act.[27]

(7) Aside from the Fund's investments in the Subsidiary, neither the Fund nor the Subsidiary will invest in non-U.S. equity securities.

(8) Neither the Fund nor the Subsidiary will invest in derivatives other than Commodity Futures.

(9) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment) deemed illiquid by the Adviser under the 1940 Act. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets.

(10) The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged or inverse leveraged returns.

(11) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules and surveillance procedures constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Exchange Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under Exchange Rule 14.12.

This approval order is based on all of the Exchange's representations, including those set forth above and in Amendment Nos. 1, 2, and 3. The Commission notes that the Fund and the Shares must comply with the requirements of BATS Rule 14.11(i) to be initially and continuously listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1, 2, and 3, is consistent with Section 6(b)(5) of the Exchange Act[28] and Section 11A(a)(1)(C)(iii) of the Exchange Act[29] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[30] that the proposed rule change (SR–BATS–2016–16), as modified by Amendment Nos. 1, 2, and 3, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14928 Filed 6–23–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. SIPA–177; File No. SIPC–2016–02]

Securities Investor Protection Corporation; Notice of Filing of Proposed Bylaw Amendments Relating to Assessment of SIPC Members

June 15, 2016.

Correction

In notice document 2016–14499, appearing on pages 39986 through 39990 in the issue of Monday, June 20, 2016, make the following corrections:

1. On page 39986, in the third column, in the document heading, under SECURITIES AND EXCHANGE COMMISSION, "[Release No. SIPA–177; File No. SIPC–2016–01]" should read "[Release No. SIPA–177; File No. SIPC–2016–02]".

2. On page 39989, in the third column, in the fifth paragraph, on the

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[27] *See* 17 CFR 240.10A–3.

[28] 15 U.S.C. 78f(b)(5).

[29] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

third line, "SIPC–2016–01" should read "SIPC–2016–02".

3. On page 39989, in the third column, in the seventh paragraph, on the second line, "SIPC–2016–01" should read "SIPC–2016–02".

4. On page 39989, in the third column, in the ninth paragraph, on the second line, "SIPC–2016–01" should read "SIPC–2016–02".

[FR Doc. C1–2016–14499 Filed 6–23–16; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78103; File No. SR–NASDAQ–2016–089]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Options Pricing at Chapter XV, Section 2

June 20, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1], and Rule 19b–4 thereunder,[2] notice is hereby given that on June 14, 2016, The NASDAQ Stock Market LLC ("Nasdaq" or "Exchange") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Chapter XV, entitled "Options Pricing," at Section 2, which governs pricing for Exchange members using the NASDAQ Options Market ("NOM"), the Exchange's facility for executing and routing standardized equity and index options.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes certain amendments to the NOM transaction fees set forth at Chapter XV, Section 2(1) for executing and routing standardized equity and index options under the Penny Pilot Option [4] program. Specifically, the Exchange proposes in Section 2(1) two new incentives regarding Non-NOM Market Makers and NOM Market Makers Penny Pilot Options Fees for Removing Liquidity; and proposes to delete note 4 regarding Non-Penny Pilot Options Fee for Removing Liquidity. The proposed changes will allow the Exchange to continue to offer and expand incentives to NOM Participants to add more liquidity to NOM.

Change 1: Penny Pilot Options—Incentives To Earn Additional Discounts on Fee for Removing Liquidity

Note 2 to Section 2(1) applies to Non-NOM Market Makers [5] and NOM Market Makers [6] Penny Pilot Options Fees for Removing Liquidity. Currently, note 2 offers a $0.02 discount (reduction to $0.48 per contract fee) on the Penny Pilot Options Fee for Removing Liquidity.[7] Currently, note 2 offers that Participants [8] that add 1.30% of Customer,[9] Professional,[10] Firm,[11] Broker-Dealer,[12] or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option average daily volume or ADV contracts per day are assessed a $0.48 per contract Penny Pilot Options Fee for Removing Liquidity provided the Participant is (i) both the buyer and the seller or (ii) the Participant removes liquidity from another Participant under Common Ownership.[13] The Exchange proposes two additional ways to earn an enhanced discount on the NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fee for Removing Liquidity.

First, the Exchange proposes to amend note 2 to Section 2(1) to add a new incentive that would assess NOM Market Maker and Non-NOM Market Maker a $0.32 per contract fee applicable to executions less than 10,000 contracts provided the Participant adds 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References in this proposal to Chapter and Series are to NOM rules, unless otherwise indicated.

[4] The Penny Pilot was established in March 2008 and was last extended in 2015. *See* Securities Exchange Act Release Nos. 57579 (March 28, 2008), 73 FR 18587 (April 4, 2008) (SR–NASDAQ–2008–026) (notice of filing and immediate effectiveness establishing Penny Pilot); and 75283 (June 24, 2015), 80 FR 37347 (June 30, 2015) (SR–NASDAQ–2015–063) (notice of filing and immediate effectiveness extending the Penny Pilot through June 30, 2016). All Penny Pilot Options listed on the Exchange can be found at *http://www.nasdaqtrader.com/Micro.aspx?id=phlx.*

[5] The term "Non-NOM Market Maker" is a registered market maker on another options exchange that is not a NOM Market Maker. A Non-NOM Market Maker must append the proper Non-NOM Market Maker designation to orders routed to NOM.

[6] The term "NOM Market Maker" is a Participant that has registered as a Market Maker on NOM pursuant to Chapter VII, Section 2, and must also remain in good standing pursuant to Chapter VII, Section 4. In order to receive NOM Market Maker pricing in all securities, the Participant must be registered as a NOM Market Maker in at least one security.

[7] The NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fees for Removing Liquidity are $0.50 per contract.

[8] The term "Participant" or "Options Participant" means a firm, or organization that is registered with the Exchange pursuant to Chapter II of these Rules for purposes of participating in options trading on NOM as a "Nasdaq Options Order Entry Firm" or "Nasdaq Options Market Maker". Participants on NOM are also known as "NOM Participants."

[9] The term "Customer" or ("C") applies to any transaction that is identified by a Participant for clearing in the Customer range at The Options Clearing Corporation which is not for the account of broker or dealer or for the account of a "Professional" (as that term is defined in Chapter I, Section 1(a)(48)).

[10] The term "Professional" or ("P") means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s) pursuant to Chapter I, Section 1(a)(48). All Professional orders shall be appropriately marked by Participants.

[11] The term "Firm" or ("F") applies to any transaction that is identified by a Participant for clearing in the Firm range at The Options Clearing Corporation.

[12] The term "Broker-Dealer" or ("B") applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[13] The term "Common Ownership" shall mean Participants under 75% common ownership or control. Common Ownership shall apply to all pricing in Chapter XV, Section 2 for which a volume threshold or volume percentage is required to obtain the pricing.

Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant meets or exceeds the cap for the Nasdaq Stock Market Opening Cross [14], and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. The Exchange believes that this proposed change, which includes a new methodology to earn an incentive via meeting or exceeding the cap for the Nasdaq Stock Market Opening Cross, will incentivize bringing additional flow to the Exchange. This proposal offers an $0.18 per contract discount from the current Penny Pilot Options Fees for Removing Liquidity for NOM Market Maker and Non-NOM Market Makers.[15]

Second, the Exchange proposes to amend note 2 to Section 2(1) to add a new incentive that would assess NOM Market Maker and Non-NOM Market Maker a $0.32 per contract fee applicable to executions less than 10,000 contracts provided the Participant adds 1.75% of Customer, Professional, Firm, Broker-Dealer, or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. This proposal offers an $0.18 per contract discount from the current Penny Pilot Options Fees for Removing Liquidity for NOM Market Maker and Non-NOM Market Makers.[16]

The amendments proposed herein to note 2 to Section 2(1) would, for executions less than 10,000 contracts, offer Participants two ways to earn an $0.18 per contract discount from the current Penny Pilot Options NOM Market Maker or Non-NOM Market Maker Fee for Removing Liquidity by delivering a greater amount of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity on NOM.[17]

Change 2: Non-Penny Pilot Options—Delete Note 4

Note 4 currently states that a Participant that qualifies for Customer or Professional Penny Pilot Options Rebate to Add Liquidity Tiers 2, 3, 4, 5, 6, 7, or 8 in a month will be assessed a Non-Penny Pilot Options Fee for Removing Liquidity of $1.08 per contract in that month. The Exchange proposes to remove note 4 from the Non-Penny Pilot Options Fee for Removing Liquidity and at the same time proposes additional ways to earn an enhanced discount on the NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fee for Removing Liquidity. The Exchange is incentivizing Participants to bring Penny Pilot Options liquidity to the Exchange since Penny Pilot Options represent the most highly-traded options in the market.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act,[18] in general, and with Section 6(b)(4) and 6(b)(5) of the Act,[19] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Exchange operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. Attracting order flow to the Exchange benefits all Participants who have the opportunity to interact with this order flow.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [20]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [21] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[22] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost." [23]

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ." [24] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Change 1: Penny Pilot Options—Incentives To Earn Additional Discounts on Fee for Removing Liquidity

The Exchange's proposal to amend note 2 to Section 2(1) to create two new incentives that would assess NOM Market Maker and Non-NOM Market Maker a $0.32 per contract fee applicable to executions less than 10,000 contracts. The first new incentive is if the Participant adds 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant meets or exceeds the cap for the Nasdaq Stock Market Opening Cross and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. The second new incentive is if the Participant adds 1.75% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. The new incentives are reasonable, equitable, and not unfairly discriminatory for the reasons that follow.

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[14] The term "Nasdaq Opening Cross" means the process for determining the price at which orders shall be executed at the open and for executing those orders. *See* Nasdaq Rule 4752(a)(2)(E)(5). Nasdaq firms that execute orders in the Nasdaq Opening Cross will be subject to fees for such executions up to a monthly maximum of $30,000, provided, however, that such firms add at least one million shares of liquidity, on average, per month. *See* Nasdaq Rule 7018(e)(2).

[15] The Penny Pilot Options Fee for Removing Liquidity for NOM Market Maker and Non-NOM Market Makers is $0.50 per contract.

[16] *Id.*

[17] For all executions 10,000 contracts or greater, a $0.48 per contract fee will be applicable provided the Participant adds 1.30% of Customer, Professional, Firm, Broker-Dealer, or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. This $0.48 fee represents a $0.02 per contract discount from the current Penny Pilot Options Fees for Removing Liquidity of $0.50 for NOM Market Maker and Non-NOM Market Makers and represents no change from the current Pricing Schedule.

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(4) and (5).

[20] Securities Exchange Act Release No. 51808 (June 29, 2005), 70 FR 37496 at 37499 (File No. S7–10–04) ("Regulation NMS Adopting Release") [sic].

[21] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[22] *See id.* at 534–535.

[23] *See id.* at 537.

[24] *See id.* at 539 (quoting Securities Exchange Act Commission at [sic] Release No. 59039 (December 2, 2008), 73 FR 74770 at 74782–74783 (December 9, 2008) (SR–NYSEArca–2006–21)).

The Exchange believes that the new incentives will attract a greater amount of order flow on NOM by offering a discounted rate. Participants are provided additional opportunities to lower NOM Market Maker and Non-NOM Market Maker fees when removing Penny Pilot Options liquidity, thereby attracting order flow to the Exchange to the benefit of all other market participants. Participants may send either Penny or Non-Penny Pilot Options to qualify for the discount. All Participant order flow that adds liquidity to the order book, other than NOM Market Maker volume, will apply to the 1.50% or 1.75% threshold to qualify for the discount. The Exchange believes that it is not necessary to count NOM Market Maker volume toward the volume to qualify for the fee discount because that volume is counted toward the qualifiers for the NOM Market Maker rebates. The Exchange also believes, as discussed below, that the proposal is reasonable in light of what is offered on other exchanges and the Exchange's effort to bring Penny Pilot Options liquidity to the Exchange.

Providing the discount to NOM Market Makers is equitable and not unfairly discriminatory because NOM Market Makers obligations to the market and regulatory requirements, which normally do not apply to other market participants.[25] A NOM Market Maker has the obligation, for example, to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The proposed differentiation as between NOM Market Makers and other market participants recognizes the differing contributions made to the trading environment on the Exchange by NOM Market Makers. For the above reasons, the Exchange believes that NOM Market Makers are entitled to discounted fees, provided they qualify for the discount. The Exchange believes it is equitable and not unfairly discriminatory to offer the fee discount to Non-NOM Market Makers because the Exchange is offering Participants flexibility in the manner in which they are submitting their orders. Non-NOM Market Makers have obligations on other exchanges to qualify as a market maker. Also, the Exchange believes that market makers not registered on NOM will be encouraged to send orders to NOM as an away market maker (Non-NOM Market Maker) with this incentive. Because the incentive is being offered to both market makers registered on NOM and those not registered on NOM, the Exchange believes that the proposal is equitable and not unfairly discriminatory because it encourages market makers to direct liquidity to NOM to the benefit of all Participants. This proposal recognizes the overall contributions made by market makers to a listed options market.

The Exchange's proposal to count all order flow (Penny and Non-Penny Pilot Options) toward the 1.50% and 1.75% requisites for volume, except for NOM Market Maker order flow, is reasonable, equitable, and not unfairly discriminatory because NOM Market Makers continue to be entitled to rebates today similar to Customers and Professionals. Customer volume is important because it continues to attract liquidity to the Exchange, which benefits all market participants. Further, with respect to Professional liquidity, the Exchange initially established Professional pricing in order to ". . . bring additional revenue to the Exchange."[26] The Exchange noted in the Professional Filing that it believes ". . . that the increased revenue from the proposal would assist the Exchange to recoup fixed costs."[27] Further, the Exchange noted in that filing that it believes that establishing separate pricing for a Professional, which ranges between that of a Customer and market maker, accomplishes this objective.[28] The Exchange offers NOM Market Makers rebates in acknowledgment of the obligations these Participants bear in the market.[29]

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to permit NOM Participants under Common Ownership to aggregate their volume for purposes of obtaining the fee discount because certain NOM Participants chose to segregate their businesses into different legal entities for purposes of conducting business. The Exchange believes that, in terms of Common Ownership, these NOM Participants should continue to be treated as one entity for purposes of qualifying for the discounted Fee for Removing Liquidity in Penny Pilot Options, as long as there is at least 75% Common Ownership or control among the NOM Participants. The Exchange also believes that it is reasonable, equitable and not unfairly discriminatory to offer an $0.18 per contract discount of the Penny Pilot Option Fee for Removing Liquidity to Non-NOM Market Makers and NOM Market Makers for transactions in which the same NOM Participant or a NOM Participant under Common Ownership is the buyer and the seller. NOM Participants that chose to segregate their businesses into different legal entities should still be afforded the opportunity to receive the discount as if they were the same NOM Participant on both sides of the transaction.

It is important to note that NOM Participants are unaware at the time the order is entered of the identity of the contra-party. Because contra-parties are anonymous, the Exchange believes that NOM Participants would continue to aggressively pursue order flow in order to receive the benefit of the fee discount. NOM Participants would continue to only receive the incentive if they interact with their own order flow, recognizing Common Ownership where applicable. Offering the additional fee discount is reasonable, equitable and not unfairly discriminatory because Participants would be entitled to receive the fee discount only when the Participant is both the buyer and seller. By way of example, if a NOM Participant that is assigned the firm code[30] "ABC" by the Exchange posted an order utilizing its Customer order router, and the order was removed by an ABC NOM Market Maker order, the NOM Participant would receive the proposed $0.18 per contract fee discount for that trade,[31] which would be $0.16 more than the current $0.02 per contract discount. The Exchange proposes to utilize the Exchange assigned firm code to determine which NOM Participant executed an order and to apply the fee discount to the Non-NOM Market Maker or NOM Market Maker Penny Pilot Option Fee for Removing Liquidity if the same NOM Participant was the buyer and the seller to a transaction.[32] This concept is not novel. Today NASDAQ PHLX LLC ("Phlx") assesses a Firm Floor Options Transaction Charge based on which side of the transaction the member represents as well whether the same member or its affiliates under Common Ownership was represented.[33] Also today, NASDAQ BX Options ("BX Options") provides discounted Fees for Removing Liquidity for registered BX Options Market Makers, based on Tier positions for the BX Participant.[34] The Exchange believes that the note 2 proposal is reasonable in comparison to other exchanges and also because of its decision to deploy Penny Pilot Options incentives in a concentrated manner.

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[25] Pursuant to Chapter VII (Market Participants), Section 5 (Obligations of Market Makers), in registering as a market maker, an Options Participant commits himself to various obligations. Transactions of a Market Maker in its market making capacity must constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and Market Makers should not make bids or offers or enter into transactions that are inconsistent with such course of dealings. Further, all Market Makers are designated as specialists on NOM for all purposes under the Act or rules thereunder. *See* Chapter VII, Section 5 [sic].

[26] *See* Securities Exchange Act Release No. 64494 (May 13, 2011), 76 FR 29014 (May 19, 2011) (SR–NASDAQ–2011–066) ("Professional Filing"). In this filing, the Exchange addressed the perceived favorable pricing of Professionals who were assessed fees and paid rebates like a Customer prior to the filing. The Exchange noted in that filing that a Professional, unlike a retail Customer, has access to sophisticated trading systems that contain functionality not available to retail Customers.

[27] *See* 76 FR 29014, 29015 (Professional Filing).

[28] *See* 76 FR 29014 [sic] (Professional Filing). The Exchange also noted in the Professional Filing that it believes the role of the retail Customer in the marketplace is distinct from that of the Professional and the Exchange's fee proposal at that time accounted for this distinction by pricing each market participant according to their roles and obligations.

[29] *See e.g.*, Chapter VII (Market Participants), Section 5 (Obligations of Market Makers).

Today the Exchange offers a $0.02 discount ($0.48 vs. $0.50 per contract) in current note 2 of Chapter XV, Section 2(1) to Participants that add 1.30% of Customer, Professional, Firm, Broker-Dealer, or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month when the Participant is (i) both the buyer and the seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. The Exchange is proposing to offer a deeper $0.18 discount ($0.32 vs. $0.50 per contract), for executions less than 10,000 contracts,[35] provided; (a.) the Participant adds 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant meets or exceeds the cap for the Nasdaq Stock Market Opening Cross and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership; or (b.) the Participant adds 1.75% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership. The Exchange believes that it is reasonable to offer this deeper discount when the Participant is both the buyer and the seller (or removes liquidity from another Participant under Common Ownership) because qualifying for the discount requires a NOM Participant to commit a substantially larger volume of liquidity on NOM. This significantly more substantial investment of order flow and liquidity into the market is beneficial to all market participants, who are free to interact with such order flow.

The Exchange believes the proposed discount where Participant adds 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options is reasonable, equitable, and not unfairly discriminatory. The Exchange believes that the proposed change is reasonable because the methodology used to qualify for the proposed discount includes the Participant meeting or exceeding the cap for the Nasdaq Stock Market Opening Cross. This concept is not novel as NOM currently uses the NASDAQ Stock Market Closing Cross "MOC" and "LOC" % of total volume to determine the NOM Participants Customer and Professional tier position.[36] The Exchange believes that incentivizing Participants to bring added liquidity by meeting or exceeding the cap for the NASDAQ Stock Market Opening Cross will benefit all Participants by providing greater opportunity for price discovery and liquidity during the Opening Cross process.

Moreover, the condition to meet or exceed the cap for the Nasdaq Stock Market Opening Cross is reasonable, equitable and not unfairly discriminatory because it provides Participants that are not able to meet the Opening Cross requirement and therefore are not able to achieve the 1.75% tier [sic] an additional way in which to qualify for the NOM Market Maker and Non-NOM Market Maker $0.32 per contract fee. That is, a Participant unable to achieve the 1.75% tier [sic] can still achieve the 1.50% tier

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[30] Each NOM Participant is assigned a firm code by the Exchange.

[31] The discount would be applicable to executions less than 10,000 contracts if: (a) the Participant adds 1.50% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant meets or exceeds the cap for the Nasdaq Stock Market Opening Cross and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership; or (b) the Participant adds 1.75% of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership.

[32] In this example, the same Participant that added and removed the order would be entitled to the fee discount because the NOM Participant was the buyer and seller (or removes liquidity from another Participant under Common Ownership) on the transaction.

[33] The Firm Floor Options Transaction Charges will be waived for members executing facilitation orders pursuant to Phlx Rule 1064 when such members are trading in their own proprietary account (including Cabinet Options Transaction Charges). The Firm Floor Options Transaction Charges will be waived for the buy side of a transaction if the same member or its affiliates under Common Ownership represents both sides of a Firm transaction when such members are trading in their own proprietary account. In addition, the Broker-Dealer Floor Options Transaction Charge (including Cabinet Options Transaction Charges) will be waived for members executing facilitation orders pursuant to Exchange Rule 1064 when such members would otherwise incur this charge for trading in their own proprietary account contra to a Customer ("BD-Customer Facilitation"), if the member's BD-Customer Facilitation average daily volume (including both FLEX and non-FLEX transactions) exceeds 10,000 contracts per day in a given month. *See* Phlx's Pricing Schedule.

[34] The BX Options Select Symbols Fee to Remove Liquidity when BX Options Market Maker trading with a Customer ("BX Options Fee") is generally inversely proportional to the BX Select Symbols Options Tier Schedule, which requires additional liquidity with increased Tiers. The BX Options Fee is, for example, $0.42 in Tier 1 and Tier 2, $0.39 in Tier 3, and $0.25 in Tier 4. The following are BX Options Select Symbols: ASHR, DIA, DXJ, EEM, EFA, EWJ, EWT, EWW, EWY, EWZ, FAS, FAZ, FXE, FXI, FXP, GDX, GLD, HYG, IWM, IYR, KRE, OIH, QID, QLD, QQQ, RSX, SDS, SKF, SLV, SPY, SRS, SSO, TBT, TLT, TNA, TZA, UNG, URE, USO, UUP, UVXY, UYG, VXX, XHB, XLB, XLE, XLF, XLI, XLK, XLP, XLU, XLV, XLY, XME, XOP, XRT. *See* BX Options Pricing Schedule.

[35] The intention of the new pricing discount is, as discussed, to attract customer orders to the Exchange. We reviewed the minimum and maximum execution size for year to date activity on the Exchange order book and determined the 10,000 contract threshold was equitable and reasonable as trades above this threshold are not typical of customer orders.

[36] *See, e.g.*, Securities Exchange Act Release No. 77661 (April 20, 2016), 81 FR 24668 (April 26, 2016) (SR–NASDAQ–2016–055) (notice of filing and immediate effectiveness to amend options pricing at NOM Chapter VX, Section 2).

[sic] provided also that the Participant adds 1.50% [sic] of Customer, Professional, Firm, Broker-Dealer or Non-NOM Market Maker liquidity in Penny Pilot Options and/or Non-Penny Pilot Options of total industry customer equity and ETF option ADV contracts per day in a month and the Participant is (i) both the buyer and seller or (ii) the Participant removes liquidity from another Participant under Common Ownership.

Like all of the changes proposed herein, this proposed change is equitable and not unfairly discriminatory because it will apply uniformly to all Participants.

Change 2: Non-Penny Pilot Options—Delete Note 4

In Change 2 the Exchange proposes to delete Note 4 which currently indicates the assessment for Non-Penny Pilot Options Fee for Removing Liquidity. The proposal is reasonable, equitable, and not unfairly discriminatory for the reasons that follow.

The removal of note 4 is reasonable because it is proposed commensurate with proposing two additional ways to earn an enhanced discount on the NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fee for Removing Liquidity in note 2. This is reasonable because in its Fee Schedule the Exchanges is encouraging bringing Penny Pilot Options liquidity to the Exchange. Since Penny Pilot Options represent the most highly-traded and liquid options on the Exchange it is reasonable for the exchange to make a concerted effort to bring Penny Pilot Options liquidity to the Exchange. Participants are provided additional opportunities to lower NOM Market Maker and Non-NOM Market Maker fees when removing Penny Pilot Options liquidity, thereby attracting order flow to the Exchange to the benefit of all other market participants. Participants may send either Penny or Non-Penny Pilot Options to qualify for the discount. All Participant order flow that adds liquidity to the order book, other than NOM Market Maker volume, will apply to the 1.50% or 1.75% threshold to qualify for the discount. Additional order flow on the Exchange promotes interaction with the added liquidity.

The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to offer the discounted remove fee in note 2 applicable to Penny Pilot Options without having an alternate fee in note 4 applicable in Non-Penny Pilot Options because, as discussed, Penny Pilot Options are clearly the highest volume, most liquid options traded on the Exchange and the Exchange is promoting such liquidity. Moreover, in light of the Exchange's effort to focus on Penny Pilot Options liquidity on the Exchange, the proposal to discontinue note 4 regarding Non-Penny Pilot Options is equitable and not unfairly discriminatory because it will apply uniformly to all Participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the proposed amendments to NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fees for Removing Liquidity seek to continue to incentivize Participants to send order flow to NOM. The Exchange does not believe this proposal to add two incentives imposes an undue burden on inter-market competition because the Exchange's execution services are completely voluntary and subject to extensive competition.

The Exchange's proposal to incentivize Participants by continuing to offer the opportunity to reduce the NOM Market Maker and Non-NOM Market Maker Penny Pilot Options Fees for Removing Liquidity and also offering additional incentives to lower these fees from $0.50 to $0.32 per contract, does not create an undue burden on intra-market competition for various reasons. NOM Market Makers have obligations to the market and regulatory requirements,[37] which, as discussed, normally do not apply to other market participants. Offering the fee discount to Non-NOM Market Makers provides Participants with flexibility in the manner in which they are submitting their orders. Non-NOM Market Makers have obligations on other exchanges to qualify as a market maker. Also, the Exchange believes that market makers not registered on NOM will be encouraged to send orders to NOM as an away market maker (Non-NOM Market Maker) with this incentive. Because the incentive is being offered to both market makers registered on NOM and those not registered on NOM, the Exchange believes that the proposal does not impose an undue burden on intra-market competition because it encourages market makers to direct liquidity to NOM to the benefit of all Participants.

Participants would be entitled to receive the fee discount when the Participant is both the buyer and seller (or removes liquidity from another Participant under Common Ownership) and therefore this qualifier does not create an undue burden on intra-market competition. NOM Participants are unaware at the time the order is entered of the identity of the contra-party, therefore, since contra-parties are anonymous, the Exchange believes that NOM Participants would aggressively pursue order flow in order to receive the benefit of the fee discount, to the benefit of all Participants.

The Exchange's proposal to continue to count all order flow toward the 1.50% or 1.75% requisite volume discussed herein, except for NOM Market Maker order flow, does not impose an undue burden on intra-market competition. It is not necessary to count NOM Market Maker volume in qualifying for the fee discount as that volume is counted toward qualifying for NOM Market Maker rebates.

The Exchange believes that permitting NOM Participants with 75% Common Ownership to aggregate their volume for purposes of obtaining the fee discount does not create an undue burden on intra-market competition because certain NOM Participants chose to segregate their businesses into different legal entities for purposes of conducting business. NOM Participants that chose to segregate their businesses into different legal entities should still be afforded the opportunity to receive the discount as if they were the same NOM Participant on both sides of the transaction.

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[37] *See supra* note 25.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[38]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NASDAQ–2016–089 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–089. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–089 and should be submitted on or before July 15, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14929 Filed 6–23–16; 8:45 am]

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[38] 15 U.S.C. 78s(b)(3)(A)(ii).

[39] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–78106; File No. SR–NYSEMKT–2016–59]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Adopting New NYSE MKT Rules 2090—Equities (Know Your Customer) and 2111—Equities (Suitability) That Are Substantially Similar to FINRA Rules 2090 (Know Your Customer) and 2111 (Suitability), Deleting Current NYSE MKT Rule 405—Equities (Diligence as to Accounts), and Making Other Conforming Changes

June 20, 2016.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on June 9, 2016, NYSE MKT LLC ("Exchange" or "NYSE MKT") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes adopting new rule text that is substantially similar to Rules 2090 (Know Your Customer) and 2111 (Suitability) of the Financial Industry Regulatory Authority, Inc. ("FINRA"), (2) deleting current Rule 405—Equities (Diligence as to Accounts) ("Rule 405"), and (3) making other conforming changes. The proposed rule change is available on the Exchange's Web site at *www.nyse.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its rules to harmonize with certain FINRA rules. Specifically, the Exchange proposes (1) adopting new rule text that is substantially similar to FINRA Rules 2090 and 2111; (2) deleting Rule 405;[4] and (3) making other conforming changes.

Background

In 2007, FINRA and the Exchange's affiliate the New York Stock Exchange LLC ("NYSE")[5] entered into an agreement (the "Agreement") pursuant to Rule 17d–2 under the Act to reduce regulatory duplication by allocating to FINRA certain regulatory responsibilities for NYSE rules and rule interpretations ("FINRA Incorporated NYSE Rules").[6] NYSE MKT became a party to the Agreement effective December 15, 2008.[7]

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[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] References to rules are to NYSE MKT rules unless otherwise indicated.

[5] NYSE Regulation, Inc., a former not-for-profit subsidiary of the NYSE, was also a party to the Agreement by virtue of the fact that it performed regulatory functions for the NYSE pursuant to a delegation agreement. *See* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251, 11264–65 (March 6, 2006) (SR–NYSE–2005–77) (approving delegation agreement). NYSE Regulation also performed regulatory services for the Exchange pursuant to an intercompany Regulatory Services Agreement ("RSA") that gave the Exchange the contractual right to review NYSE

In order to reduce regulatory duplication and relieve firms that are members of the Exchange, the NYSE and FINRA of conflicting or unnecessary regulatory burdens, FINRA has been reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[8] As part of the rule consolidation process, in 2010, FINRA harmonized NASD and FINRA Incorporated NYSE Rules and interpretations concerning know your customer and suitability.[9] In its filing, FINRA (1) adopted FINRA Rules 2090 (Know Your Customer) and 2090 (Suitability), and (2) deleted NASD Rule 2310 (Recommendations to Customers (Suitability)) and NYSE Rule 405 (Diligence as to Accounts) as well as NYSE Rule Interpretations 405/01 through/04. The rule change was effective July 9, 2012.[10]

Currently, the Exchange does not have separate rules for know your customer and suitability. Rather, Rule 405, based on NYSE Rule 405,[11] requires every member organization, through a principal executive or a person or persons designated under the provisions of Rule 3110(a), to take certain actions relative to customers and customer accounts. First, Rule 405(1) requires member organizations to use "due diligence" to learn the "essential facts relative to every customer, every order, every cash or margin account accepted or carried by such organization and every person holding power of attorney over any account accepted or carried by such organization." Second, Rule 405(2) requires member organizations to supervise diligently all accounts handled by registered representatives. Finally, Rule 405(3) requires persons designated by the member to be informed of the essential facts relative to the customer and to the nature of the proposed account prior to approving the opening of the account.

Supplementary Material .10 of Rule 405 generally discusses the requirements that firms know their customers and imposes specific knowledge and due diligence requirements in connection with the authority of third parties to act on behalf of customers that are legal entities, including margin accounts carried by a member organization for a non-member corporation, cash accounts carried for a non-member corporation, and agency accounts carried by a member organization.[12] Supplementary Material .20 of Rule 405 refers to the requirements of Rule 4311 concerning the permitted allocation of responsibilities between introducing and carrying organizations. Supplementary Material .30 cross references to Rule 414 (Index and Currency Warrants).[13]

Proposed Rule Change

The Exchange proposes to delete current Rule 405 as either duplicative of, or not aligned with, the proposed know your customer and suitability requirements discussed below, and adopt the text of FINRA Rules 2090 and 2111.[14]

Proposed Rule 2090—Equities (Know Your Customer)

Like FINRA Rule 2090, proposed Rule 2090—Equities ("Rule 2090") would encompass the "main ethical standard" of Rule 405(1).[15] The proposed rule would require every "member organization through a principal executive or a person or persons designated under the provisions of Rule 3110(a)" [16] to use "reasonable diligence," with regard to the opening and maintenance of every account, in order to know and retain the essential facts concerning every customer. The proposed supplementary material would define "essential facts" as those "required to (a) effectively service the customer's account, (b) act in accordance with any special handling instructions for the account, (c) understand the authority of each person acting on behalf of the customer, and (d) comply with applicable laws, regulations, and rules." [17] The proposed rule would be identical to FINRA Rule 2090 except that the proposed rule would use the term "member organization" rather than "member," which has different meanings under FINRA and Exchange rules.[18]

Regulation's performance. The delegation agreement and related RSA terminated on February 16, 2016, and NYSE Regulation has ceased providing regulatory services to the Exchange, which has re-integrated its regulatory functions.

[6] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as "Common Rules"). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA or the Exchange to the substance of any of the Common Rules.

[7] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as "Common Rules"); 60409 (July 30, 2009), 74 FR 39353 (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE MKT LLC as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE MKT to the substance of any of the Common Rules.

[8] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE ("Dual Members"), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[9] *See* Securities Exchange Act Release No. 63325 ((November 17, 2010), 75 FR 71479 (November 23, 2010) (SR–FINRA–2010–039) ("FINRA Know Your Customer and Suitability Approval").

[10] *See* FINRA Regulatory Notice 11–25 (May 2011). The original effective date was October 7, 2011.

[11] The NYSE recently made a similar filing to delete Rule 405 and its related interpretations and adopt new NYSE Rules 2090 and 2111 based on FINRA Rules 2090 and 2111. *See* Securities Exchange Act Release No. 77838 (May 16, 2016), 81 FR 31974 (May 20, 2016) (SR–NYSE–2016–33).

[12] As discussed below, the Exchange believes that Supplementary Material .10 of Rule 405—Equities is redundant of proposed Rule 2090 and proposed Supplementary Material .01 thereof that would require firms to know the essential facts concerning every customer.

[13] NYSE Rule 414 provides that Rule 723 (Suitability) applies to recommendations in currency warrants, currency index warrants and stock index warrants. When the Exchange adopted the NYSE's rules in 2008, however, NYSE Rule 414 was not adopted. *See* Securities Exchange Act Release No. 58265 (July 30, 2008), 73 FR 46075, 46078 (August 7, 2008) (SR–Amex–2008–63). The Exchange believes that the other cross references in Rule 405 are either no longer necessary or moot.

[14] The technical and conforming changes are that the Exchange would (1) substitute the term "member organization" for "member" (*see* note 18, *infra*), (2) substitute the term "Exchange" for "FINRA," (3) change certain cross-references to FINRA rules to cross-references to Exchange rules, and (4) add references to proposed Rules 2090—Equities and 2111—Equities in Rule 3170 (Tape Recording of Registered Persons by Certain Firms).

[15] FINRA Know Your Customer and Suitability Approval, 75 FR at 71480.

[16] This is the current formulation in Rule 405, which the Exchange proposes to retain.

[17] *See* Proposed Rule 2090.01. Like FINRA, the Exchange does not propose to incorporate the requirement in NYSE Rule 405(1) to learn the essential facts relative to "every order." The Exchange agrees with FINRA that the application of existing order-handling rules renders this formulation unnecessary. *See* FINRA Know Your Customer and Suitability Approval, 75 FR at 71480. Further, the Exchange's proposed suitability rule would also require member organizations and persons associated with a member organization to use reasonable diligence to understand the securities and strategies they recommend, further obviating the need for this language. *See id.*

[18] Under FINRA Rules, a "member" means individual, partnership, corporation or other legal entity admitted to membership in FINRA under Articles III and IV of the FINRA By-Laws. *See* FINRA Rule 0160(b)(10). Article III, Sec. 1(a)

Continued

Proposed Rule 2111—Equities (Suitability)

Proposed Rule 2111—Equities ("Rule 2111"), like its FINRA counterpart, would require a member organization or person associated with a member organization[19] to have a "reasonable basis" to believe that a recommended transaction or investment strategy involving a security or securities is suitable for the customer. This assessment would be based on the information obtained through the reasonable diligence of the member organization or person associated with a member organization to ascertain the customer's investment profile, which includes, but is not limited to, the customer's age, other investments, financial situation and needs, tax status, investment objectives, investment experience, investment time horizon, liquidity needs, risk tolerance, and any other information the customer may disclose to the member organization or person associated with a member organization in connection with such recommendation.[20] Like the FINRA rule, the proposed Rule would explicitly cover a recommended investment strategy.[21] The proposed Rule would exclude the following communications from the coverage of proposed Rule 2111 as long as they do not include (standing alone or in combination with other communications) a recommendation of a particular security or securities:

- General financial and investment information, including (i) basic investment concepts, such as risk and return, diversification, dollar cost averaging, compounded return, and tax deferred investment, (ii) historic differences in the return of asset classes (*e.g.*, equities, bonds, or cash) based on standard market indices, (iii) effects of inflation, (iv) estimates of future retirement income needs, and (v) assessment of a customer's investment profile;
- Descriptive information about an employer-sponsored retirement or benefit plan, participation in the plan, the benefits of plan participation, and the investment options available under the plan;
- Asset allocation models that are (i) based on generally accepted investment theory, (ii) accompanied by disclosures of all material facts and assumptions that may affect a reasonable investor's assessment of the asset allocation model or any report generated by such model, and (iii) in compliance with FINRA Rule 2214 (Requirements for the Use of Investment Analysis Tools) if the asset allocation model is an "investment analysis tool" covered by FINRA Rule 2214; and
- Interactive investment materials that incorporate the above.[22]

Again like its FINRA counterpart, the proposed Rule would be composed of three main suitability obligations, as follows:

- The reasonable-basis suitability obligation, which requires a member organization or person associated with a member organization to have a reasonable basis to believe, based on reasonable diligence, that the recommendation is suitable for at least some investors;[23]
- The customer-specific suitability obligation, which requires that a member organization or person associated with a member organization have a reasonable basis to believe that the recommendation is suitable for a particular customer based on that customer's investment profile, as delineated in proposed Rule 2111(a);[24] and
- The quantitative suitability obligation, which requires a member organization or person associated with a member organization who has actual or de facto control over a customer account to have a reasonable basis for believing that a series of recommended transactions, even if suitable when viewed in isolation, are not excessive and unsuitable for the customer when taken together in light of the customer's investment profile, as delineated in proposed Rule 2111(a).[25]

Proposed Rule 2111 would also prohibit a member organization or person associated with a member organization from recommending a transaction or investment strategy involving a security or securities or the continuing purchase of a security or securities or use of an investment strategy involving a security or securities unless the member organization or person associated with a member organization has a reasonable basis to believe that the customer has the financial ability to meet such a commitment.[26]

Finally, like the FINRA rule, proposed Rule 2111 would provide an exemption to customer-specific suitability for institutional investors, who would be required to affirmatively indicate that they are exercising independent judgment in evaluating the recommendations of the member organization on a trade-by-trade basis, on an asset-class-by-asset-class basis, or

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generally limits membership to registered brokers, dealers, municipal securities brokers or dealers, or government securities brokers or dealers. NYSE MKT's equivalent term is "member organization." *See* Rule 2(b)(i)—Equities (defining "member organization" as a registered broker or dealer (unless exempt pursuant to the Act) that is a member of FINRA or another registered securities exchange). Under Rule 2(a)—Equities, the term "member" means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the floor of the Exchange or any facility thereof. A "member" is not a registered broker-dealer and does not have employees; only member organizations have employees. For purposes of the proposed amendments to its disciplinary rules, the Exchange proposes to continue using the phrase "covered person" to indicate employees of a member organization. As noted below, for purposes of the proposed change, the Exchange proposes to continue using the phrase "person associated with a member organization" to indicate employees of a member organization for purposes of proposed Rule 2111.

[19] As proposed, Rule 2111 is identical to FINRA Rule 2111 except that the Exchange proposes to use the phrase "member organization or person associated with a member organization" rather than "member or an associated person" to indicate the coverage of the rule. As discussed above, "member" and "member organization" have different meanings under NYSE MKT and FINRA rules, and under the Exchange's rules only member organizations can have employees. *See* note 16, *supra*. The Exchange thus proposes to use the phrase "person associated with a member organization" to indicate employees of a member organization for purposes of proposed Rule 2111.

[20] *See* Proposed Rule 2111(a). For institutional customers, the proposed Rule would require that a member organization or person associated with a member organization have a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies, and is exercising independent judgment in evaluating recommendations. *See* Proposed Rule 2111(b). Institutional customers would also be required to affirmatively indicate that they are exercising independent judgment. *See id.*

[21] FINRA Know Your Customer and Suitability Approval, 75 FR at 71481.

[22] *See* Proposed Rule 2111.03.

[23] *See* Proposed Rule 2111.05(a). The proposed rule would clarify that, in general, what constitutes reasonable diligence will vary depending on, among other things, the complexity of and risks associated with the security or investment strategy and the member organization's or person associated with a member organization's familiarity with the security or investment strategy. Further, a member organization's or person associated with a member organization's reasonable diligence must provide the member organization or person associated with a member organization with an understanding of the potential risks and rewards associated with the recommended security or strategy. Finally, the proposed rule would specify that the lack of such an understanding when recommending a security or strategy violates the suitability rule. *See generally id.*

[24] *See* Proposed Rule 2111.05(b).

[25] *See* Proposed Rule 2111.05(c). The proposed rule would provide that no single test defines excessive activity but that factors such as the turnover rate, the cost-equity ratio, and the use of in-and-out trading in a customer's account may provide a basis for a finding that a member organization or person associated with a member organization has violated the quantitative suitability obligation. *See id.*

[26] *See* Proposed Rule 2111.06.

in terms of all potential transactions for its account.[27]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[28] in general, and furthers the objectives of Section 6(b)(5) of the Act,[29] in particular, because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes the proposed rule change is consistent with the Exchange's obligations under the Exchange Act to prevent fraudulent or manipulative acts and practices, and to promote just and equitable principles of trade, because the proposed rule would incorporate the FINRA "know your customer" rule and related suitability standards into the Exchange's Rules. The "know your customer" and suitability obligations are critical to ensuring investor protection and fair dealing with customers.

Further, the Exchange believes that the proposed rule change supports the objectives of Section 6(b)(5) of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. In particular, Exchange member organizations that are also FINRA members are subject to NYSE MKT Rule 405 and FINRA Rules 2090 and 2111, and harmonizing these rules by adopting proposed rules identical to FINRA Rules 2090 and 2111would promote just and equitable principles of trade by providing greater harmonization between NYSE MKT Rules and FINRA Rules of similar purpose by requiring the same standards for "know your customer" and suitability, resulting in less burdensome and more efficient regulatory compliance for Dual Members. As previously noted, the proposed rule text is substantially the same as NYSE MKT's rule text. To the extent the Exchange has proposed changes that differ from the FINRA version of the Exchange rules, such changes are generally technical in nature and do not change the substance of the proposed rules. The Exchange also believes that the proposed rule change will update and add specificity to the requirements governing "know your customer" and suitability requirements, which will promote just and equitable principles of trade and help to protect investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[30] the Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not intended to address competitive issues but rather to achieve greater consistency between the Exchange's rules and FINRA's rules concerning "know your customer" and suitability.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[31] and Rule 19b–4(f)(6) thereunder.[32] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[33] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[34] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[35] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2016–59 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–59. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*).

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–59 and should be submitted on or before July 15, 2016.

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[27] *See* Proposed Rule 2111.07. Like the FINRA rule, the institutional-customer exemption would apply only if both parts of the two-part test are met: (1) There is a reasonable basis to believe that the institutional customer is capable of evaluating investment risks independently, in general and with regard to particular transactions and investment strategies, and (2) the institutional customer affirmatively indicates that it is exercising independent judgment in evaluating recommendations. *See* Proposed Rule 2111(b); FINRA Know Your Customer and Suitability Approval, 75 FR at 71481, n. 25.

[28] 15 U.S.C. 78f(b).

[29] 15 U.S.C. 78f(b)(5).

[30] 15 U.S.C. 78f(b)(8).

[31] 15 U.S.C. 78s(b)(3)(A)(iii).

[32] 17 CFR 240.19b–4(f)(6).

[33] 17 CFR 240.19b–4(f)(6).

[34] 17 CFR 240.19b–4(f)(6)(iii).

[35] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[36]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14933 Filed 6–23–16; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–116, OMB Control No. 3235–0109]

Submission for OMB Review; Comment Request

Upon Written Request Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extensions: Rule 12d1–3.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget this request for extension of the previously approved collection of information discussed below.

Exchange Act Rule 12d1–3 (17 CFR 240.12d1–3) requires a certification that a security has been approved by an exchange for listing and registration pursuant to Section 12(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78l(d)) to be filed with the Commission. The information required under Rule 12d1–3 must be filed with the Commission and is publicly available. We estimate that it takes approximately one-half hour to provide the information required under Rule 12d1–3 and that the information is filed by approximately 688 respondents annually for a total annual reporting burden of 344 burden hours (0.5 hours per response × 688 responses).

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the background documentation for this information collection at the following Web site, *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: June 20, 2016.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2016–14931 Filed 6–23–16; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14746 and #14747]

Texas Disaster #TX–00471

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Texas dated 06/16/2016.

Incident: Severe Storms and Flooding.

Incident Period: 05/16/2016.

Effective Date: 06/16/2016.

Physical Loan Application Deadline Date: 08/15/2016.

Economic Injury (EIDL) Loan Application Deadline Date: 03/16/2017.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: San Patricio.

Contiguous Counties: Texas: Aransas, Bee, Jim Wells, Live Oak, Nueces, Refugio.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.250
Homeowners Without Credit Available Elsewhere	1.625
Businesses With Credit Available Elsewhere	6.250
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14746 6 and for economic injury is 14747 0.

The State which received an EIDL Declaration # is Texas.

(Catalog of Federal Domestic Assistance Number 59008)

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2016–14990 Filed 6–23–16; 8:45 am]

BILLING CODE 8025–01–P

SURFACE TRANSPORTATION BOARD

[Docket No. MCF 21067]

Prisoner Transportation Services, LLC—Control—U.S. Corrections, LLC D/B/A U.S.C.

AGENCY: Surface Transportation Board.

ACTION: Notice tentatively approving and authorizing finance transaction.

SUMMARY: On May 26, 2016, Prisoner Transportation Services, LLC (Applicant) filed an application under 49 U.S.C. 14303 so that it can acquire common control of U.S. Corrections, LLC (U.S.C.). The Board is tentatively approving and authorizing the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action. Persons wishing to oppose the application must follow the rules at 49 CFR 1182.5 and 1182.8.

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[36] 17 CFR 200.30–3(a)(12).

DATES: Comments must be filed by August 8, 2016. Applicant may file a reply by August 23, 2016. If no comments are filed by August 8, 2016, this notice shall be effective on August 9, 2016.

ADDRESSES: Send an original and 10 copies of any comments referring to Docket No. MCF 21067 to: Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, send one copy of comments to Applicant's representative: Henry E. Seaton, Esq., Law Office of Seaton & Husk, L.P., 2240 Gallows Road, Vienna, VA 22182.

FOR FURTHER INFORMATION CONTACT: Amy Ziehm (202) 245–0391. Federal Information Relay Service (FIRS) for the hearing impaired: 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Applicant states that it is a limited liability company under the laws of Tennessee and that it owns and operates two interstate motor carriers: PTS of America, LLC (PTS) (MC–689407) and Brevard Extraditions, Inc. d/b/a/US Prisoner Transport (USPT) (MC–643115). *Prisoner Transp. Servs., LLC—Control—PTS of Am., LLC*, MCF 21064 (STB served Nov. 27, 2015) (granting Applicant's request to acquire common control of PTS and USPT). Applicant states that it provides a specialized type of for-hire interstate passenger carriage service through its affiliates, which transport incarcerated prisoners, including convicts, parole jumpers, and individuals under criminal indictment who have escaped to foreign jurisdictions, for state and local prisons, correctional facilities, and sheriff's departments. Applicant states that, under its affiliates, it currently operates 33 vehicles, including three passenger buses; four specially designed transporters suitable for the transportation of as many as 25 inmates and four guards; and 26 vans suitable for the transportation of up to 12 inmates and up to two drivers or guards. Applicant states that four individuals currently have controlling interest: Alan Sielbeck (38.5%), Kent Wood (31.5%), Robert Downs (24%), and Lisa Kyle (6%).

Applicant states that U.S.C. is a limited liability company established under the laws of North Carolina and holds authority from the Federal Motor Carrier Safety Administration (FMCSA) as a motor carrier of passengers (MC–872586). According to Applicant, U.S.C. is engaged in the same specialized type of interstate transportation of passengers by motor carrier as Applicant, operating specially equipped van and bus equipment suitable for the transportation of prisoners and complies with the Interstate Transportation of Dangerous Criminals Act. Applicant states that U.S.C. operates 12 vans that can hold up to 14 passengers. Applicant states that U.S.C. is currently owned by Steve Jacques (50%), Ashley Jacques (25%), and Dustin Baldwin (25%).

According to Applicant, if Board approval is granted, U.S.C. would join it in providing specialized transportation focused on the recovery and extradition of prisoners from jails and detention facilities in one state and delivery to points of incarceration in interstate commerce under guard, using both air-ex and passenger motor carrier service based upon attractive contract rates.

Applicant explains that under the proposed transaction, the owners of U.S.C. would transfer their complete interest in U.S.C. to Applicant and receive a shareholder's interest in Applicant in return. Applicant states that its combined member and membership interest of would be as follows once the transfer is complete: Alan Sielbeck (32.7%), Kent Wood (26.8%), Robert Downs (20.4%), Lisa Kyle (5.1%), Steve Jacques (7.5%), Dustin Baldwin (3.75%), and Ashley Jacques (3.75%). Applicant would acquire all the interest in U.S.C., and U.S.C. would join Applicant as one of its affiliate carriers. The current owners of U.S.C. would retain indirect control of U.S.C. and acquire indirect control of the affiliate carriers already under Applicant. Applicant would acquire indirect control of U.S.C. and retain indirect control of its affiliated entities.

Under 49 U.S.C. 14303(b), the Board must approve and authorize a transaction that it finds consistent with the public interest, taking into consideration at least: (1) The effect of the proposed transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees. Applicant submitted information, as required by 49 CFR 1182.2, including information to demonstrate that the proposed transaction is consistent with the public interest under 49 U.S.C. 14303(b), and a statement that the aggregate gross operating revenues of Applicant and U.S.C. exceeded $2 million for the preceding 12-month period, *see* 49 U.S.C. 14303(g).[1]

Applicant submits that the proposed transaction would have no significant impact on the adequacy of transportation services to the public. Rather, Applicant anticipates that common control of the carriers would result in more efficient and timely transportation. By combining the pickup and delivery schedules of both companies, Applicant states, detainees scheduled for pickup could be booked more expeditiously on the nearest available bus or transporter, regardless of whether the vehicle is operated by one of its existing affiliates or U.S.C..

Applicant notes that U.S.C. brings with it a higher degree of operational skill and experience in a unique and specialized marketplace. Applicant says that U.S.C.'s leadership team will become high-ranking members of its leadership team. According to Applicant, U.S.C. has developed custom-designed, specialized software that Applicant intends to use across its affiliates that will significantly increase the organization's efficiency and effectiveness.

Applicant also notes that consolidation would permit vehicle sharing arrangements, coordinated driver training, and safety management and load sharing arrangements. Applicant claims that it is time intensive and expensive to increase the size of a fleet due to the necessary aftermarket customization of the vehicles, and this transaction would improve its fleet and provide it with more flexibility. It further claims that consolidation would allow for the centralization of various management support functions such as vehicle licensing, legal affairs, accounting, human resources, purchasing, and environmental compliance.

Applicant claims that the proposed transaction would not have any adverse competitive effect on any portion of the passenger transportation industry. Applicant states that the vast majority of prisoners and detainees are transported by U.S. Marshals, state law enforcement officers, sheriffs, deputies, or local police officers. Furthermore, Applicant states, other for-hire carriers are also in the national marketplace. In total, after consummation, Applicant asserts that the combined operation would constitute less than five percent of the population being transported.

According to Applicant, competitors would not be adversely affected by the transaction, because prisoner extradition services are provided based upon open competition among qualified service providers. Applicant also states that there is nothing to preclude existing carriers from expanding their routes, rates and services, and nothing to keep well capitalized new entrants from entering the market at any time.

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[1] Applicants with gross operating revenues exceeding $2 million are required to meet the requirements of 49 CFR 1182.

With respect to fixed charges, Applicant believes that assuming control of U.S.C. would generate greater economies of scale, which would reduce the variety of unit costs now being incurred to operate these carriers under separate ownership. Additionally, Applicant states that the combined carriers should be able to enhance their volume purchasing power, thereby reducing insurance premiums and achieving deeper discounts for equipment and fuel.

Applicant also claims that affected employees would benefit from the transaction. It says that employees would maintain job security, would retain or expand the volume of available work, and would have an increased opportunity to schedule shorter tours of duty, resulting in less time away from their home base.

On the basis of the application, the Board finds that the proposed acquisition is consistent with the public interest and should be tentatively approved and authorized. If any opposing comments are timely filed, these findings will be deemed vacated, and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this notice will take effect automatically and will be the final Board action.

Board decisions and notices are available on our Web site at "*WWW.STB.DOT.GOV*".

It is ordered:

1. The proposed transaction is approved and authorized, subject to the filing of opposing comments.

2. If opposing comments are timely filed, the findings made in this notice will be deemed vacated.

3. This notice will be effective August 9, 2016, unless opposing comments are filed by August 8, 2016.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue NW., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 1200 New Jersey Avenue SE., Washington, DC 20590.

Decided: June 20, 2016.

By the Board, Chairman Elliott, Vice Chairman Miller, and Commissioner Begeman.

Tia Delano,

Clearance Clerk.

[FR Doc. 2016–15009 Filed 6–23–16; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2016–0004; Notice 2]

Aston Martin Lagonda Limited; Denial of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Denial of petition.

SUMMARY: Aston Martin Lagonda Limited (AML), has determined that certain model year (MY) 2009–2015 Aston Martin DB9 two-door and four-door passenger cars do not fully comply with paragraph S4.3 of Federal Motor Vehicle Safety Standard (FMVSS) No. 206, *Door locks and door retention components.* Aston Martin Lagonda of North America, Inc., filed a report dated December 16, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* for AML. AML then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–5298, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), AML submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on February 17, 2016, in the **Federal Register** (81 FR 8125). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: *http://www.regulations.gov/*. Then follow the online search instructions to locate docket number "NHTSA–2016–0004."

II. Vehicles Involved: Affected are approximately 5,516 MY 2009–2015 Aston Martin DB9 two-door and four-door passenger cars that were manufactured between September 1, 2009 and December 9, 2015.

III. Noncompliance: AML explains that the noncompliance occurs when the door locking system in the subject vehicles is double-locked causing the interior operating means for unlocking the door locking mechanism to become disengaged and therefore does not meet the requirements as specified in paragraph S4.3 of FMVSS No. 206.

IV. Rule Text: Paragraph S4.3 of FMVSS No. 206 requires:

> S4.3 Door Locks. Each door shall be equipped with at least one locking device which, when engaged, shall prevent operation of the exterior door handle or other exterior latch release control and which has an operating means and a lock release/engagement device located within the interior of the vehicle.
>
> S4.3.1 Rear side doors. Each rear side door shall be equipped with at least one locking device which has a lock release/engagement mechanism located within the interior of the vehicle and readily accessible to the driver of the vehicle or an occupant seated adjacent to the door, and which, when engaged, prevents operation of the interior door handle or other interior latch release control and requires separate actions to unlock the door and operate the interior door handle or other interior latch release control.
>
> S4.3.2 Back doors. Each back door equipped with an interior door handle or other interior latch release control, shall be equipped with at least one locking device that meets the requirements of S4.3.1. . . .

V. Summary of AML's Petition: AML described the subject noncompliance and stated its belief that the noncompliance is inconsequential to motor vehicle safety for the following reasons:

(a) AML stated that the subject vehicles can only be double-locked by using the key fob (which also serves as the ignition key) and that if the vehicle is double-locked from the inside, the driver and or passenger will be able to disengage the double-lock by using the key fob. AML believes that as a result, the double-locking mechanism could not cause a situation in which a vehicle is double-locked from the inside by the driver and a crash disables the driver, leaving the passenger(s) locked inside.

(b) AML stated that the risks of children being locked in the vehicle by means of the double-locking mechanism, does not pose an unacceptable risk to motor vehicle safety. AML believes that compared to other motor vehicles, AML's vehicles are rarely used to transport children. With the exception of the Rapide and Rapide S models, all Aston Martin vehicles are two-door sports cars.

Moreover, AML states that the double-locking mechanism in the subject vehicles poses no greater risk to children than the child safety locks expressly found to be permitted by FMVSS No. 206.

(c) AML stated its belief that there is little risk that any adults will be locked in its vehicles.

(d) AML stated that in the event a driver were to inadvertently lock a passenger in one of the subject vehicles, the passenger would be able to sound the horn, which would remain functional, allowing the passenger to alert the driver and passers-by.

(e) AML also stated that many of the subject vehicles have motion sensors that would detect the presence of someone in the vehicle as soon as that person moved, and an alarm would sound, which is audible outside the vehicle. Thus, deterring inadvertent lock-ins of both adults and children and would alert passers-by of any passengers locked in the subject vehicles.

(f) AML stated its belief that if an adult were locked in a vehicle, he or she could alert passers-by and would probably be able to contact the driver via mobile communication devices that, in fact, are ubiquitous today and certainly are very likely to be in the possession of the average AML vehicle passenger.

AML also stated that they have not received any complaints regarding the subject noncompliance.

AML additionally informed NHTSA that they have corrected the noncompliance in vehicles manufactured from production date December 9, 2015 and will correct the noncompliance in any unsold noncompliant vehicles prior to sale.

In summation, AML believes that the described noncompliances are inconsequential to motor vehicle safety, and that its petition, to exempt AML from providing notification of the noncompliances as required by 49 U.S.C. 30118 and remedying the noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA'S Decision

NHTSA's Analysis: NHTSA does not find AML's rationale that the subject noncompliance is inconsequential to motor vehicle safety persuasive. AML made several assumptions regarding the actions that passengers could take in the event of being double-locked in the subject vehicles (*e.g.*, a passenger will be able to disengage the double-lock by using the key fob; AML's vehicles are rarely used to transport children; in the event a driver were to inadvertently lock a passenger in one of the subject vehicles, the passenger would be able to sound the horn to alert the driver and passers-by; many of the subject vehicles have motion sensors that would detect the presence of someone in the vehicle, if that person moved, and sound an alarm alerting the driver or passers-by; someone trapped in the vehicle would probably be able to contact the driver via mobile communication devices, etc.), but offered no specific solution to lower the risk of being trapped in a car, save complying with the rule, as AML has been doing since December 2015.

In February 2007, NHTSA provided a specific solution towards lowering the risk of a passenger being trapped in a motor vehicle when it published a final rule[1] to amend FMVSS No. 206. Among the final rule updates, Paragraphs S4.3 and S4.3.1, required a lock release/engagement device located inside the vehicle.

NHTSA also reaffirmed that new requirement for a lock release/engagement device inside the vehicle in an interpretation letter to Mr. Thomas Betzer from Keykert, USA. In that interpretation, NHTSA addressed whether double-locked doors (doors that can only be unlocked using a key) would be allowed under the rule as amended in February 2007 (the current rule) in a system similar to AML's in that once the driver would activate the anti-theft alarm with a key, the doors would be double-locked. Specifically, NHTSA interpreted that double-lock systems are no longer allowed because they interfere with the interior door lock release device. The interpretation also makes it clear that in the December 15, 2004, Notice of Proposed Rulemaking and the February 6, 2007, final rule, that NHTSA sought to require interior door locks to "be capable of being unlocked from the interior of the vehicle by means of a lock release device that has an operating means and a lock release/engagement device located within the interior of the vehicle."

NHTSA has examined certain real world situations involving individuals trapped in motor vehicles, while infrequent, are consequential to motor vehicle safety. Such scenarios include vehicle fires, vehicles entering bodies of water, and individuals trapped in hot vehicles. Vehicles with double locked doors in emergency situations such as those examined, would have consequential effects on motor vehicle safety.

Based on its analysis of AML's petition, NHTSA has determined that AML has failed to make a case that having double locked doors in a vehicle that is involved in an emergency scenario in which the occupants of the subject vehicles are unable to access the key fob to open the doors and are unable to be seen or heard is inconsequential to safety.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that AML has not met its burden of persuasion that the FMVSS No. 206 noncompliance is inconsequential to motor vehicle safety. Accordingly, AML's petition is hereby denied and AML is obligated to provide notification of, and a free remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

Authority: 49 U.S.C. 30118, 30120: Delegations of authority at 49 CFR 1.95 and 501.8.

Gregory K. Rea,

Associate Administrator for Enforcement.

[FR Doc. 2016–14964 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–59–P

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[1] 72 FR 5385, February 6, 2007.

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0023]

Pipeline Safety: Public Workshop on Underground Natural Gas Storage Safety

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a public meeting to solicit input and obtain background information concerning underground natural gas storage safety. PHMSA and the National Association of Pipeline Safety Representatives (NAPSR) are co-sponsoring this one-day workshop. The workshop will bring federal and state regulators, emergency responders, industry, and interested members of the public together to participate in understanding and shaping the future for maintaining the safety of underground natural gas storage facilities.

PHMSA and NAPSR recognize that the October, 2015, Southern California Gas Company's (SoCal Gas) Aliso Canyon underground natural gas storage

facility leak on Well SS25 located in the Porter Ranch area near Los Angeles, California, has drawn concerns regarding natural gas storage well safety and the environmental effects of an incident. Currently, throughout the United States, approximately 400 interstate and intrastate underground natural gas storage facilities are operating with more than four trillion cubic feet of natural gas working capacity.

DATES: The public workshop will be held on July 14, 2016. Name badge pick up and on-site registration will be available starting at 7:30 a.m., with the workshop taking place from 8:00 a.m. until approximately 4:30 p.m. mountain time. Online preregistration for the workshop is available until July 10, 2016. Refer to the meeting Web site for the latest information about the meeting including agenda and the webcast. *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=115.* Presentations and a recording of proceedings will be available within 30 days after the event.

ADDRESSES: The workshop will be held at the Renaissance Boulder Flatiron Hotel located at 500 Flatiron Boulevard, Broomfield, Colorado 80021. The hotel can be contacted at 1–303–464–8400.

Registration: Members of the public may attend this free workshop. Please note that the public workshop will also be webcast for those who cannot attend in person. To help assure that adequate space is provided, attendees, both in person and by webcast, should register in advance at the PHMSA public meeting Web site at: *http://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=115.* Onsite registration will also be available for those attending in person. Presentations will also be available online at the meeting page Web site within 30 days following the meeting.

Comments: Members of the public may submit written comments either before or after the workshop. Comments should reference Docket No.: PHMSA–2016–0023. Comments may be submitted in the following ways:

- *E-Gov Web site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency. Follow the instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System, Room W12–140, on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

Instructions: Identify the docket number (PHMSA–2016–0023) at the beginning of your comments. If you submit your comments by mail, submit two copies. If you wish to receive confirmation that PHMSA has received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov.*

Note: Comments will be posted without changes or edits to *http://www.regulations.gov* including any personal information provided. Please see the Privacy Act Statement below for additional information.

Privacy Act Statement

Anyone may search the electronic form of all comments received for any of our dockets. You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19476) or visit *http://dms.dot.gov.*

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact Kenneth Lee, Engineering and Research Division, at (202) 366–2694 or *kenneth.lee@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Kenneth Lee, Engineering and Research Division, at 202–366–2694 or *kenneth.lee@dot.gov* about the subject matter in this notice.

SUPPLEMENTARY INFORMATION: PHMSA and NAPSR recognize that many of the existing underground natural gas storage facilities across the country have wells that have similar characteristics to the SoCal Gas Well SS25. Many, like Well SS25, are over 50 years old. They may flow through both the tubing and production casing with no subsurface safety valve or isolation zone with completion fluid to offset the high pressure effects of a possible casing corrosion leak. Many were originally constructed using production techniques such as having pipe sections that were joined by threaded couplings, not girth welds. They typically do not have a corrosion resistant internal or external protective coating. The workshop will have discussions on the aging effects on well safety including safety practices in well design, operations, and maintenance measures including downhole assessments and the type of preventative and mitigative measures to implement. Underground natural gas storage wells have operating pressures from about 200 pounds per square inch (psi) to 4,500 psi. By comparison, the maximum U.S. pipeline pressures are a maximum of about 2,000 psi and most are below 1,000 psi. Unlike line pipe, which for natural gas pipeline operations, has a design factor of 0.72 or less, most wells were not installed with consistent standards such as design safety factors to contain the well pressure.

On February 5, 2016, (81 FR 6334) PHMSA issued Advisory Bulletin ADB–2016–02. The advisory bulletin recommended that operators of underground natural gas storage facilities review their operating, maintenance, and emergency response activities to ensure that the integrity of underground natural gas storage facilities is properly maintained. This bulletin informed operators about recommended practices and urged operators to take all necessary actions to prevent and mitigate breach of integrity, leaks, or failures at their underground natural gas storage facilities and to ensure the safety of the public and operating personnel and to protect the environment. Operators were advised to:

(1) Verify that the pressure required to inject intended natural gas volumes does not exceed the design pressure limits of the reservoir, wells, wellheads, piping, casing, tubing, or associated facilities;

(2) Monitor all wells for the presence of annular gas or liquids on a periodic basis;

(3) Inspect the wellhead assembly and attached pipelines for each of the wells used;

(4) Conduct periodic functional tests of all surface and subsurface safety valve systems and wellhead pipeline isolation valve(s) for proper function and ability to shut-off or isolate the well and remediate improperly functioning valves;

(5) Perform risk assessments in a manner that reviews, at a minimum, the API RP 1171 criteria to evaluate the need for subsurface safety valves on new, removed, or replaced tubing strings or production casing;

(6) Conduct ongoing assessments for the verification and demonstration of the mechanical integrity of each well and related piping and equipment;

(7) Develop and implement a corrosion monitoring and integrity evaluation program for piping, wellhead, casing, and tubing including the usage of the appropriate well log evaluations;

(8) Develop and implement procedures for the evaluation of well and attendant storage facilities that include analysis of facility flow erosion, hydrate potential, individual facility component capacity and fluid disposal capability at intended gas flow rates and pressures, and analysis of the specific impacts that the intended operating pressure range could have on the corrosive potential of fluids in the system;

(9) Identify potential threats and hazards associated with operation of the underground storage facility;

(10) Perform ongoing verification and demonstration of the integrity of the underground storage reservoir or cavern using appropriate monitoring techniques for integrity changes such as the monitoring of pressure and periodic pressure surveys, inventory (injection and withdrawal of all products), product levels, cavern subsidence, and the findings from adjacent production and water wells, and observation wells;

(11) Ensure that emergency procedures are reviewed, conducted, and updated at least annually; and

(12) Ensure records of the processes, procedures, assessments, reassessments, and mitigation measures are maintained for the life of the storage well.

The Aliso Canyon incident has highlighted the concern about the current lack of minimum federal regulations related to the downhole operation of underground natural gas storage wells. The full extent of the damage, both to people and the environment, caused by the Aliso Canyon incident will not be known until much later.

This workshop is a forum for PHMSA to collect input regarding safety concerns of the public and the challenges industry faces in conducting daily operations, maintenance, integrity verification, well monitoring, threat and hazard identification, assessments, remediation, site security, emergency response and preparedness, and recordkeeping.

Issued in Washington, DC, on June 20, 2016, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Acting Associate Administrator for Pipeline Safety.

[FR Doc. 2016–14953 Filed 6–23–16; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Real Estate Lending and Appraisals

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning renewal of its information collection titled, "Real Estate Lending and Appraisals."

DATES: Comments must be received by August 23, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0190, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

Title: Real Estate Lending and Appraisals (12 CFR 34, 160, 164, 190).

OMB Control No.: 1557–0190.

Type of Review: Extension, without revision, of a currently approved collection.

Description: Twelve CFR parts 34 and 160 contain reporting and recordkeeping requirements. Twelve CFR part 34, subpart B (Adjustable-Rate Mortgages (ARM)), subpart E (Other Real Estate Owned (OREO)), and part 160 contain reporting requirements. Twelve CFR part 34, subpart C (Appraisal Requirements), subpart D (Real Estate Lending Standards), and parts 160 and 164 contain recordkeeping requirements. Twelve CFR 190.4(h) contains a disclosure requirement concerning Federally-related residential manufactured housing loans.

Twelve CFR part 34, subpart B, section 34.22(a) requires that for ARM loans, the loan documentation must specify an index or combination of indices to which changes in the interest rate will be linked. Sections 34.22(b) and 160.35(d)(3) provide notice procedures to be used when seeking to use an alternative index.

Twelve CFR 34.44 and 164.4 provide minimum standards for the performance of real estate appraisals, including the requirement that appraisals be written and contain sufficient information and analysis to support the institution's decision to engage in the transaction.

Twelve CFR 34.62, 160.101, and the related appendices require each institution to adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate or that are made for the purpose of financing permanent improvements to real estate. Real estate lending policies must be reviewed and approved by the institution's board of directors at least annually.

Twelve CFR 34.84 requires that, after holding any real estate acquired for future bank expansion for one year, a national bank must state, by resolution or other official action, its plans for the use of the property and make the resolution or other action available for inspection by examiners. Sections 34.85 and 160.172 require that national banks and Federal savings associations develop a prudent real estate collateral evaluation policy to monitor the value of each parcel of OREO in a manner consistent with prudent banking practice. Section 34.86 requires that national banks notify the appropriate OCC supervisory office at least 30 days before making advances under a development or improvement plan for OREO if the total investment in the property will exceed 10 percent of the bank's capital and surplus.

Twelve CFR 190.4(h) requires that for Federally-related residential manufactured housing loans, a creditor must provide a debtor a notice of default 30 days prior to repossession, foreclosure, or acceleration.

Affected Public: Businesses or other for-profit.

Frequency of Response: On occasion.

Burden Estimates:

Estimated Number of Respondents: 1,023 national banks and 390 Federal savings associations.

Estimated Annual Burden: 94,512 burden hours.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 20, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–14939 Filed 6–23–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Survey of Minority Owned Institutions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning a renewal of an information collection titled, "Survey of Minority Owned Institutions."

DATES: Comments must be submitted on or before August 23, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0236, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the OMB for each collection of information that they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

Title: Survey of Minority Owned Institutions.

OMB Control No.: 1557–0236.

Type of Review: Regular review.

Description: The OCC is committed to assessing its efforts to provide supervisory support, technical assistance, education, and other outreach to the minority-owned institutions under its supervision, in accordance with meeting the goals prescribed under section 308 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989.[1] To perform this assessment, it is necessary to obtain feedback from the individual institutions on the effectiveness of OCC's current efforts in these areas and suggestions on how the OCC might enhance or augment its supervision and technical assistance going forward. The OCC uses the information gathered to assess the needs of minority-owned institutions and its efforts to meet those needs. The OCC also uses the information to focus and enhance its supervisory, technical assistance, education and other outreach activities with respect to minority-owned institutions.

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[1] 12 U.S.C. 1463 note.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 55.

Estimated Number of Responses: 55.

Estimated Annual Burden: 110 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 20, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–14938 Filed 6–23–16; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Activities: Information Collection Renewal; Comment Request; Interagency Statement on Complex Structured Finance Transactions

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on a continuing information collection, as required by the Paperwork Reduction Act of 1995 (PRA).

An agency may not conduct or sponsor, and a respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The OCC is soliciting comment concerning the renewal of an information collection titled, "Interagency Statement on Complex Structured Finance Transactions."

DATES: Comments must be submitted on or before August 23, 2016.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0229, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov*. You may personally inspect and photocopy comments at the OCC, 400 7th Street SW., Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf or hard of hearing, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW., Suite 3E–218, Mail Stop 9W–11, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. "Collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the OCC is publishing notice of the proposed collection of information set forth in this document.

The OCC is proposing to extend the following information collection:

Title: Interagency Statement on Complex Structured Finance Transactions.

OMB Control No.: 1557–0229.

Description: The interagency statement describes the types of internal controls and risk management procedures that the agencies (OCC, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, and the Securities and Exchange Commission) consider particularly effective in helping financial institutions identify and address the reputational, legal, and other risks associated with complex structured finance transactions.

Affected Public: Businesses or other for-profit.

Burden Estimates:

Estimated Number of Respondents: 9.

Estimated Number of Responses: 9.

Estimated Annual Burden: 225 hours.

Frequency of Response: On occasion.

Comments: Comments submitted in response to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information has practical utility;

(b) The accuracy of the OCC's estimate of the information collection burden;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected;

(d) Ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques or other forms of information technology; and

(e) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: June 20, 2016.

Mary Hoyle Gottlieb,

Regulatory Specialist, Legislative and Regulatory Activities Division.

[FR Doc. 2016–14940 Filed 6–23–16; 8:45 am]

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Part II

Department of Energy

10 CFR Parts 429 and 431

Energy Conservation Program: Certification, Compliance, Labeling, and Enforcement for Electric Motors and Small Electric Motors; Proposed Rule

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2014–BT–CE–0019]

RIN 1904–AD25

Energy Conservation Program: Certification, Compliance, Labeling, and Enforcement for Electric Motors and Small Electric Motors

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy ("DOE" or the "Department") is proposing to revise its certification, compliance, and enforcement regulations for electric motors and small electric motors to conform to the enforcement regulations for all other covered products and equipment and to consolidate, to the extent possible, the certification and compliance regulations for electric motors and small electric motors with those for other types of covered products and equipment. In addition to bringing the certification, compliance, and enforcement regulations for electric motors and small electric motors under the umbrella and general regulatory scheme of DOE's existing certification, compliance, and enforcement regulations for other equipment and products, this proposal provides specific sampling plans, certification of efficiency requirements, independent testing laboratory and certification program requirements, and labeling requirements for electric motors and small electric motors.

DATES: DOE will accept comments, data, and information regarding this NOPR no later than July 25, 2016. See section V, Public Participation, for details.

ADDRESSES: Any comments submitted must identify the NOPR for Certification, Compliance, and Enforcement for Electric Motors and Small Electric Motors, and provide docket number EERE–2014–BT–CE–0019 and/or regulatory information number (RIN) number 1904–AD25. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email: MotorsCCE2014CE0019@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Written comments regarding the burden-hour estimates or other aspects of the collection-of-information requirements contained in this proposed rule may be submitted to the Office of Energy Efficiency and Renewable Energy through the methods listed above and by email to *Chad_S_Whiteman@omb.eop.gov.*

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials, is available for review at *regulations.gov.* All documents in the docket are listed in the *regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www.energy.gov/eere/buildings/implementation-certification-and-enforcement.* This Web page will contain a link to the docket for this notice on the *regulations.gov* site. The *regulations.gov* site contains simple instructions on how to access all documents, including public comments, in the docket. See section V for further information on how to submit comments through *www.regulations.gov.*

For further information on how to submit a comment, or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Ashley Armstrong, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–6590 or *Ashley.Armstrong@ee.doe.gov.*

Ms. Laura Barhydt, U.S. Department of Energy, Office of the General Counsel, GC–32, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–5772 or Email: *Laura.Barhydt@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE proposes to incorporate by reference the following industry standards into part 429:

(1) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ISO/IEC Guide 17025:2005(E), "General requirements for the competence of calibration and testing laboratories," Third edition, December 1, 1990;

(2) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ISO/IEC Guide 27, Guidelines for corrective action to be taken by a certification body in the event of misuse of its mark of conformity", First edition, March 1, 1983;

(3) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ISO/IEC Guide 17026:2015, "Conformity assessment—Example of a certification scheme for tangible products," First edition, February 1, 2015;

(4) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ISO/IEC Guide 17065:2012, "Conformity assessment—Requirements for bodies certifying products, processes and services," First edition, September 15, 2012.

Copies of these ISO/IEC Guides can be obtained from the International Organization for Standardization, Chemin de Blandonnet 8, 1214 Vernier, Genève, Switzerland, or by going to *http://www.iso.org/iso/home/store.htm.*

See section IV.M for a further discussion of these standards.

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I. Authority and Background

Title III of the Energy Policy and Conservation Act of 1975, as amended ("EPCA" or, in context, "the Act") sets forth a variety of provisions designed to improve energy efficiency. Part A of Title III (42 U.S.C. 6291–6309) provides for the Energy Conservation Program for Consumer Products Other Than Automobiles. The National Energy Conservation Policy Act (NECPA), Public Law 95–619, amended EPCA to add Part B of Title III, which established an energy conservation program for certain industrial equipment. (42 U.S.C. 6311–6317) [1] Included among the various equipment types addressed by EPCA [2] are electric and small electric motors.

As relevant here, DOE's energy conservation program under EPCA consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for: (1) Certifying to DOE that their products comply with the applicable energy conservation standards adopted under EPCA; and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.[3] Further, 42 U.S.C. 6299–6305, 6316, and 6317 authorize DOE to enforce compliance with the energy conservation standards related to a variety of consumer products and commercial equipment, including electric motors and small electric motors.

This document proposes to move the current compliance- and certification-related procedures and requirements for electric motors into DOE's regulations at 10 CFR part 429. It also proposes adding product-specific provisions for small electric motors at 10 CFR part 429.

The provisions related to the compliance, certification, and enforcement ("CCE") of electric motors in this proposal are based on the existing compliance certification procedures for electric motors. Under 42 U.S.C. 6316(c), DOE must require manufacturers of electric motors for which energy conservation standards are established at 42 U.S.C. 6313(b) to certify, through an "independent testing or certification program nationally recognized in the United States" that those electric motors meet the applicable standard. DOE codified this requirement by developing a regulatory process for laboratory accreditation (for independent testing) and for the recognition and withdrawal of recognition for certification programs nationally recognized in the U.S. Under 10 CFR 431.17(a)(5), a manufacturer can establish compliance either through: (1) A certification program that DOE has classified as nationally recognized,[4] or (2) testing in an accredited laboratory for which the accreditation body was the National Institute of Standards and Technology/National Voluntary Laboratory Accreditation Program ("NIST/NVLAP"), a laboratory accreditation body having a mutual recognition arrangement with NIST/NVLAP, or an organization classified by DOE as an accreditation body pursuant to 10 CFR 431.19. Existing DOE regulations detail the certification program national recognition process at 10 CFR 431.20–431.21 and laboratory accreditation at 10 CFR 431.18–431.19.

On May 4, 2012, DOE published certain compliance testing regulations for small electric motors. *See* 77 FR 26608 ("2012 test procedure") (codified at 10 CFR 431.445, 431.447, 431.448). Under these regulations, manufacturers of small electric motors have the option of self-certifying the efficiency of their small electric motors or using a certification program nationally recognized in the U.S. to certify the efficiency of these motors. *See* 10 CFR 431.445. In the 2012 test procedure, DOE noted that there were no existing certification programs for small electric motors. 77 FR at 26630. Since then, DOE has recognized two certification programs for small electric motors. *See* 78 FR 72077 (December 2, 2013) (recognition of UL) and 79 FR 24700 (May 1, 2014) (recognition of CSA). DOE also noted in the 2012 test procedure that it would work with NIST/NVLAP on small electric motor laboratory accreditation programs. *See* 77 FR at 26630.

EPCA sets different labeling requirements for electric motors and small electric motors. For electric motors in general, EPCA directed DOE to prescribe labeling requirements, taking into consideration NEMA Standards Publication MG1–1987. (42 U.S.C. 6315(d)) Consistent with this requirement, DOE established labeling requirements for electric motors on October 5, 1999 (October 1999 final rule). *See* 64 FR 54114. In contrast, although EPCA directs DOE to prescribe labeling requirements for those small electric motors for which the Secretary of Energy has prescribed energy efficiency standards, the statute does not require DOE to consider MG1–1987. (42 U.S.C. 6317(d))

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[1] For editorial reasons, Parts B (consumer products) and C (commercial equipment) of Title III of EPCA were codified as parts A and A–1, respectively, in the United States Code.

[2] All references to EPCA in this document refer to the statute as amended through the Energy Efficiency Improvement Act of 2015, Public Law 114–11 (April 30, 2015).

[3] The test procedures for electric motors are described in appendix B to subpart B of 10 CFR part 431; the test procedures for small electric motors are described in 10 CFR 431.444.

[4] To date, DOE has only classified Canadian Standards Association (CSA) and Underwriters Laboratories, Inc. (UL) as certification programs nationally recognized in the U.S.

II. Summary of the Proposal

This proposal seeks to revise DOE's certification and enforcement regulations for electric motors and small electric motors to encourage compliance, achieve energy savings, and help ensure a fair and equitable competitive field among all manufacturers. As summarized below, the proposal would conform the existing CCE requirements for electric motors to the same structure and substance already used with respect to DOE's CCE regulations found at 10 CFR part 429 for all other consumer products and commercial and industrial equipment. It also proposes the use of product-specific sampling plans and certification mechanisms for electric motors.

For small electric motors, this proposal also provides product-specific sampling plans and certification mechanisms. DOE is proposing to adopt labeling requirements for small electric motors similar to those for electric motors.

A. Conformance With Existing Certification, Compliance and Enforcement Regulations

This proposal would make the provisions for electric motors and small electric motors consistent with the general provisions already in place for all other EPCA-covered products and equipment found in 10 CFR part 429, subpart A (general provisions), subpart B (certification), and subpart C (enforcement). The proposed rule would: (1) Move and amend certification testing, sampling, and certification provisions specific to electric motors, (2) move the sampling and certification testing provisions specific to small electric motors, and (3) add certification provisions specific to small electric motors.

This proposal would also add new paragraphs (h) and (i) to 10 CFR 429.70, which would address the use of alternative methods for determining energy efficiency or energy use (also known as alternative efficiency determination methods, or "AEDMs") for electric motors and small electric motors. The proposal would move and amend existing AEDM provisions for electric motors and for small electric motors. The proposal would move and amend the administrative process for recognizing certification programs to new sections 10 CFR 429.73 and 429.75. The proposal would add an administrative process for recognizing testing laboratories, either directly or through recognition of accreditation organizations, to new sections 10 CFR 429.74 and 429.75. Finally, the proposed rule would move the electric motor labeling requirements from 10 CFR 431.31 to a new 10 CFR 429.76 and add labeling requirements for small electric motors. The proposal also would add a definition for "independent" to describe how DOE evaluates the independence of testing laboratories and certification programs. The proposed definition of the term "independent" would replace the currently defined term "independent laboratory" found at 10 CFR 431.2.

Finally, the proposed rule would amend the procedures applicable to electric motor and small electric motor manufacturers and private labelers who are involved in an enforcement action with DOE by applying the process already codified at 10 CFR part 429, subpart C. DOE notes that it anticipates publishing in the near future a notice of proposed rulemaking to amend part 429 for all products, which could impact the proposals in this rule. Therefore, for the purposes of this proposed rule, the Department is only soliciting comments on 10 CFR part 429 as it pertains to electric motors. DOE is not re-opening the application of part 429 as it pertains to manufacturers of any other covered product or equipment.

B. Changes to Existing Electric Motor Certification, Compliance, Enforcement and Labeling Regulations

This proposal would retain the subpart that separately addresses test methodology and standards for electric motors (10 CFR part 431, subpart B).

Regarding the definitions applicable to electric motors in § 431.12, the proposal would revise the current "basic model" definition as applied to electric motors to more closely align with the definition used for other DOE-regulated products and equipment, add a definition for "equipment class" to accompany the "basic model" definition, and remove definitions related to accreditation as a result of the proposed changes regarding laboratory accreditation. The proposal would also address how to treat electric motors that are capable of operation at voltages other than 230 or 460 volts with respect to testing and representations of energy efficiency. Finally, the current CCE and labeling provisions for electric motors would be removed from 10 CFR part 431, subpart B. More specifically, the current Subpart U would be removed and reserved so that all CCE and labeling requirements for electric motors would be located together in 10 CFR part 429.

C. Changes to Existing Small Electric Motor Regulations

This proposal would retain the subpart that addresses standards and the testing methodology for small electric motors (10 CFR part 431, subpart X). The provisions addressing sampling of units for testing, including sampling statistics, test facility requirements, and the certification requirements, are being addressed in this rule.

For the definitions applicable to small electric motors in § 431.442, this proposal would revise the existing definition of "basic model" to more closely align with the definition used for other DOE-regulated products and equipment, and add a definition for "equipment class" to accompany the "basic model" definition. Finally, the proposal would amend 10 CFR 431.446 to explain how DOE would apply the exemption for small electric motors that are installed in another type of covered product or equipment.

III. Discussion of Specific Revisions and Additions to Electric Motor and Small Electric Motor Certification, Compliance, Enforcement and Labeling Regulations

In this portion of the notice, DOE details all of the new and amended provisions of this proposed rule. DOE proposes to both amend and add new sections to 10 CFR part 429 and to remove or amend portions of 10 CFR part 431, subparts B, U, and X. These proposed changes are discussed separately below.

A. General Changes

In addition to the reorganization described in detail later in this document, this proposal would change the existing electric motor regulations at 10 CFR part 431, subpart B in several ways. The portions of the existing electric motor regulations that pertain to certification, compliance, and enforcement would be amended and moved to 10 CFR part 429. It would also amend other sections of 10 CFR part 431, subpart B to ensure the regulatory structure comprising 10 CFR part 431, subpart B and 10 CFR part 429 remains coherent. This proposal would also amend the "Purpose and Scope" in § 431.11 by removing references to labeling and compliance, which this proposal would address in part 429.

Additionally, the existing definition of "basic model" would become similar to the definitions used for other DOE-regulated products and equipment and would eliminate an ambiguity found in the current regulation. The definition currently specifies that basic models of electric motors are all units of a given type manufactured by the same manufacturer, which have the same *rating,* and have electrical characteristics that are essentially identical, and do not have any differing physical or functional characteristics that affect energy consumption or efficiency. (10 CFR 431.12) For the purposes of this definition, the term "rating" is specified to mean one of 113 combinations of horsepower, poles, and open or enclosed construction. (*See id.*) The reference to 113 combinations dates from the Department's implementation of the Energy Policy Act of 1992 ("EPACT 1992") (Pub. L. 102–486), which set initial standards for motors based on that categorization. Since then, EISA 2007 and DOE's regulations have established standards for additional motor categories. *See* 10 CFR 431.25. To clarify that the concept of a "basic model" reflects the categorization in effect under the prevailing standard, as it stands today and as it may evolve in future rulemakings, the proposed rule would refer only to the combinations of horsepower (or standard kilowatt equivalent), number of poles, and open or enclosed construction for which 10 CFR 431.25 prescribes standards; it would drop the current reference to 113 such combinations.

In addition, the proposal would modify the basic model definition for electric motors by replacing the "rating" term with the term "equipment class," which also would be defined. The term "equipment class" would have a meaning similar to the notion of "rating" in the current regulation but, as noted, would clearly encompass the full range of equipment classes for which DOE ultimately sets standards. It will also limit confusion between the use of the term "rating" in this specific case and the use of the term as it applies to represented values of other individual characteristics of an electric motor, such as its rated horsepower, voltage, torque, or energy efficiency.[5] The proposed basic model definition would retain the current language about a "basic model" having essentially identical electrical characteristics without any differing physical or functional characteristics that affect energy consumption or efficiency.

Similarly, the existing small electric motor regulations at 10 CFR part 431, subpart X would be changed by this proposed rule in several ways. The portions of the existing small electric motor regulations that pertain to certification testing would be amended and moved to 10 CFR part 429. This proposal would amend or remove other sections of 10 CFR part 431, subpart X to ensure coherence between 10 CFR part 431, subpart X and 10 CFR part 429.

As with electric motors, for small electric motors, this proposal would revise the existing definition of "basic model" to make it similar to the definitions used for other DOE-regulated products and equipment. The existing "basic model" definition found at 10 CFR 431.442 would remain largely intact except the proposal would replace the term "rating" and its definition in the current regulations with the term "equipment class" and its accompanying definition. The current language about a "basic model" having essentially identical electrical characteristics without any differing physical or functional characteristics that affect energy consumption or efficiency is retained in the proposed "basic model" definition.

The proposal would add a new definition for "equipment class" under 10 CFR 431.442. Similar to the "ratings" concept currently in DOE's "basic model" definition, each small electric motor "equipment class" would be the combination of each small electric motor group (*i.e.,* capacitor-start, capacitor-run; capacitor-start, induction-run; or polyphase), horsepower (or standard kilowatt equivalent), and number of poles, for which 10 CFR 431.446 prescribes average full-load efficiency standards.

B. Compliance Certification Numbers

This proposed rule would replace the currently used compliance certification ("CC") number for electric motors with a new Manufacturer's Identification Number ("MIN"). Under current DOE regulations at 10 CFR 431.36(c), electric motor manufacturers must obtain a compliance certification number ("CC number") to affix to the permanent nameplate of an electric motor for which standards are prescribed under 10 CFR 431.25. A CC number is a unique number assigned by DOE for any brand name, trademark, or other label name under which a manufacturer or private labeler distributes covered electric motors and for which the manufacturer or private labeler submits compliance certifications to DOE under 10 CFR 431.36. While the CC number is unique to a specific manufacturer or private labeler's brand name, trademark, or other label name, it is not unique to individual basic models and does not uniquely identify the original equipment manufacturer ("OEM").

DOE has determined that the current system has certain disadvantages, including the inability to trace a unit back to a specific OEM. Nonetheless, the use of such a numbering system, where the numbers are unique to brand and manufacturer combinations, would enable DOE to readily identify the OEM for a given unit, which would facilitate DOE enforcement of applicable energy conservation standards. Without sufficient information identifying the OEM and brand name for covered electric motors, DOE can neither efficiently ascertain whether a manufacturer or private labeler has certified compliance for a given, covered electric motor, nor necessarily identify the responsible parties when responding to third-party claims that a given, covered electric motor does not comply with applicable energy conservation standards. The currently used CC numbers are not assigned on this basis and cannot provide this requisite information. By using the MIN system proposed in this document, DOE seeks to remedy this problem. The MIN system would require a single party (such as an OEM or a private labeler) to first request and obtain from DOE a MIN that would be listed in the certification report and stamped on the nameplate of a covered electric motor before its distribution in commerce.

Under the proposed version of 10 CFR 431.17, DOE would provide a unique MIN for each OEM-brand name combination. The term "original equipment manufacturer" or "OEM" would be defined as the manufacturer that produces or assembles an electric motor covered by a certification of compliance. DOE would issue a MIN for use only with a single OEM-brand name combination. No overlap with other OEM-brand name combinations would be permitted. In other words, once DOE has issued a MIN for a particular OEM-brand name combination, that MIN will be the only MIN applicable to those electric motors manufactured by that OEM and labeled under that brand name. Further, in the event the brand name to which a MIN is applicable is discontinued, the OEM would notify DOE within 30 days of the discontinuance, after which time the MIN would become invalid for use on any newly produced units. As described in the proposed § 431.17(b)(4), the MIN could not be transferred to another entity or used on the nameplates of basic models manufactured by an OEM other than the OEM associated with the MIN. In accordance with the proposed § 431.17(d), MIN requests would be submitted to DOE either electronically at *http://www.regulations.doe.gov/ccms* or via email at: *MotorMINRequest@ee.doe.gov.*

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[5] In this document, DOE uses the verb "to rate" to refer to a manufacturer determining a value through measurements or use of an AEDM and then setting the represented value for that characteristic. Any use of the term "rating" to refer to the combination of characteristics under the current basic model definition will be clearly identified. All other occurrences of "rating" refer to a manufacturer's rated (*i.e.,* represented) values. A rated or represented value is the value that the manufacturer uses in its marketing, labeling, and certification of compliance.

For small electric motors, due to the significant volume of manufacturer-basic model combinations in today's small electric motor market and that market's dynamic nature, DOE is proposing that small electric motor manufacturers also must first request and obtain from DOE a MIN for use with each specific OEM-brand name combination before distributing a covered small electric motor in commerce. As described in detail previously for electric motors, under the proposed 10 CFR 431.447, DOE would provide a unique MIN for each OEM-brand name combination. Although the process for manufacturers of small electric motors to obtain a MIN would be the same, DOE is proposing to issue different MINs for electric motor manufacturer-brand name combinations and small electric motor manufacturer-brand name combinations. In other words, there would be no overlapping MINs because different MINs would be used with each manufacturer-brand combination for electric motors and small electric motors—with each small electric motor manufacturer having a unique MIN that is separate from each electric motor manufacturer MIN.

DOE requests comments on this proposal, particularly with respect to the amount of time needed for manufacturers to transition to MINs. DOE also requests comment regarding whether the OEM-brand relationship is confidential business information, and whether a list of MINs and associated OEMs and brands should be posted on DOE's Certification Compliance Management System ("CCMS") Web site. DOE also requests comment on whether, if the OEM-brand relationship is confidential business information, the brand-MIN listing should be published. To evaluate whether the OEM-brand relationship is confidential business information, DOE specifically requests comment on whether the OEM-brand relationship is held in confidence by the OEM, private labeler, and importer; whether the OEM-brand relationship is available in public sources; whether disclosure of the information is likely to cause substantial harm to the competitive position of the OEM, private labeler, or importer; and the nature of that harm.

DOE is proposing that a MIN may not be transferred to another entity. DOE requests comment regarding how much time would be required to transition a MIN on a nameplate to a new MIN if an OEM were acquired by another company or underwent some other corporate reorganization that would require the assignment and use of a new MIN.

C. Electric Motor Certification and Compliance

This proposal would amend sections of 10 CFR part 429 by removing language that currently excludes electric motors from coverage under this part. Part 429 includes subpart A (General Provisions), subpart B (Certification), and subpart C (Enforcement). After the proposed removal of this exclusionary language, part 429 would apply to all covered products and equipment, including electric motors and small electric motors.

DOE requests comment on this proposed change, which would impact the certification and enforcement procedures applicable to electric motor manufacturers and private labelers. These changes, as well as changes to labeling and sampling provisions, are discussed in the subsections that follow.

1. Certification Testing

As described in section I of this proposed rule, DOE codified at 10 CFR 431.17(a)(5) the statutory requirement prescribing that manufacturers must certify electric motors as compliant with the applicable standard through the use of an "independent testing or certification program nationally recognized in the United States." (42 U.S.C. 6316(c)) In its October 1999 final rule establishing certification, labeling and test procedures for electric motors, DOE explained that testing conducted in a laboratory accredited by a body such as NIST/NVLAP would satisfy the "independent testing" requirement under the statute. 64 FR 54124. The accreditation requirements applicable to testing laboratories for electric motors are at 10 CFR 431.18, and the specific provisions for DOE recognition of accreditation bodies are at 10 CFR 431.19. DOE has found through examination of certification information submitted by manufacturers that most independent testing laboratories that currently conduct electric motor efficiency testing are accredited by NIST/NVLAP. Among the manufacturers that did not appear to use a NIST/NVLAP accredited laboratory, nearly all appear to have used a certification program classified by DOE as nationally recognized. Because manufacturers are not currently required to report the specific laboratory or certification program that was used for their testing, DOE typically does not receive this information. Accordingly, DOE has reached these conclusions based on communications with manufacturers and other information submitted concurrently with certifications of compliance, such as test reports.

Laboratories accredited by NIST/NVLAP are governed by the National Voluntary Laboratory Accreditation Program "Procedures and General Requirements" NIST Handbook 150–10 (February 2007) and Lab Bulletin LB–42–009. (*See* 10 CFR 431.18(b).) NIST Handbook 150–10 (via incorporation by reference of "Procedures and General Requirements" NIST Handbook 150 (February 2006)) describes the level of independence that a laboratory must have in relation to the organization for which it is conducting testing. The requirements include organizational arrangements that are necessary for in-house laboratories and additional levels of independence that must be demonstrated for third-party laboratories.

An organization can petition DOE to be classified as a nationally recognized certification program. (*See* 10 CFR 431.20(a)) DOE evaluates such petitions based on several criteria, including: (1) The standards and procedures for conducting and administering a certification program; (2) independence from electric motor manufacturers, importers, distributors, private labelers or vendors; (3) the qualifications to operate the certification system; and (4) expertise in the DOE's electric motor test procedures. 10 CFR 431.20(b). After a petition is submitted, DOE publishes the petition in the **Federal Register** and solicits comments on whether the petition should be granted, after which the petitioner has the option of responding to any adverse comments before DOE announces an interim determination, followed by a final determination. 10 CFR 431.21. The Department can also withdraw recognition if DOE believes that the certification program is failing to meet the above-referenced criteria. A recognized program may also voluntarily withdraw its program from recognition. (See 10 CFR 431.21(g).) Since the October 1999 final rule, DOE has recognized two organizations as nationally recognized certification programs, CSA Group ("CSA") and UL Verification Services ("UL"), both of which were recognized in final determinations published on December

27, 2002. *See* 67 FR 79480 and 67 FR 79490.

Consistent with the requirements of 42 U.S.C. 6316(c), this proposal continues to offer the option of using an independent testing or certification program nationally recognized in the U.S. However, DOE is proposing to add further specificity regarding which parties can test electric motors and certify compliance with the applicable energy conservation standards to DOE. This proposal provides three options in this regard: (1) A manufacturer can have the electric motor tested using a testing program that is nationally recognized in the United States (as described in § 429.74 of this proposal) and then certify on its own behalf or have a third party submit the manufacturer's certification report; (2) a manufacturer can test the electric motor at a testing laboratory other than a testing program that is nationally recognized and then have a certification program that is nationally recognized in the United States (as described in § 429.73 of this proposal) certify the efficiency of the electric motor; or (3) a manufacturer can use an alternative efficiency determination method ("AEDM," discussed in section III.E of this proposed rule) and then have a third-party certification program that is nationally recognized in the United States (as described in § 429.73 of this proposal) certify the efficiency of the electric motor. These options are included in the proposed testing and sampling provisions applicable to electric motors in § 429.63. Under this regulatory structure, a manufacturer cannot both test in its own laboratories and directly submit the certification of compliance to DOE for its own electric motors.

This document proposes a definition for "independent" that would pertain to the testing program evaluation criteria and the certification program evaluation criteria as described in the proposed §§ 429.74(c) and (d) and 429.73(c) and (d), respectively. The term, "independent," would refer to an entity that is not controlled by, or under common control with, electric motor manufacturers, importers, private labelers, or vendors. Control, for these purposes, would mean ownership of or the power to vote 25 percent of the shares of any single class of securities of a company, or the power to control the election of a majority of directors of a company. "Independent" would also mean that the testing laboratory has no affiliation or financial ties or contractual agreements, apparently or otherwise, with such entities that would: (1) Hinder the ability of the laboratory to evaluate fully or report the measured or calculated energy efficiency of any electric motor, or (2) create any potential or actual conflict of interest that would undermine the validity of said evaluation. This definition is largely based on the descriptions of independence currently in 10 CFR 431.19(b)(2) and 431.19(c)(2).

In the existing regulations, DOE addresses the requirement to use an independent testing program nationally recognized in the United States by requiring that testing laboratories be accredited by NIST/NVLAP, a laboratory accreditation program having a mutual recognition program with NIST/NVLAP, or an organization classified by DOE as an accreditation body. 10 CFR 431.18. DOE is proposing to revise these requirements by creating a system by which testing programs may attain recognition, similar to the existing provisions for certification programs. In DOE's view, a key criterion for a testing program to receive recognition will be demonstrating independence, as previously described. Another criterion will be demonstrating the ability to perform testing in accordance with the DOE test procedure, which may or may not be adequately reflected through accreditation.[6] Accordingly, DOE proposes to remove the definitions of "accreditation," "accreditation body," "accreditation system," and "accredited laboratory" from 10 CFR 431.12. Further, DOE proposes to remove the definition of "independent laboratory" from 10 CFR 431.2.

DOE believes that "independent" as defined in this proposed rule is a more appropriate interpretation of the statutory language found in 42 U.S.C. 6316(c) than the agency's prior application of this provision. The 1999 rule assumed that a laboratory could be meaningfully independent, in a way that would satisfy the statutory criterion, while being owned by a manufacturer, so long as the laboratory was NIST/NVLAP certified. In light of experience since that time, DOE is concerned that this premise is not justified. Testing at a manufacturer's own laboratory allows the opportunity for a manufacturer to gain a competitive advantage by administering the testing in such a manner that could yield better results. It also further exacerbates the differential treatment between those businesses that are financially able to own their own test facilities and small businesses that may not have the capital to afford such large investments. Of course, a reasonable contract under which an otherwise independent laboratory conducts a test would not, on its own, cause the laboratory not to be independent of the manufacturer.

In this proposal, DOE also allows for the option of testing in a manufacturer's own laboratory if the manufacturer uses a third-party certification program, as described above. DOE believes this combination of the three options explained above to determine the efficiency and losses for electric motors subject to DOE's test procedures and standards provides manufacturers with the most flexibility while satisfying the statute. DOE recognizes that the concerns expressed in the rulemaking that culminated in the October 1999 final rule may still apply. *See, e.g.,* 61 FR 60455–60456 (November 27, 1996). At that time, DOE noted that there were few test facilities that could meet this level of independence and noted the concerns of commenters that test facilities could not handle the necessary volume of testing given the potential for "thousands" of basic models. Nonetheless, DOE believes that the proposed change should have little practical impact on manufacturers' current practices due to the volume of motors rated using AEDMs and/or through participation in certification programs. DOE understands that most models are rated based on modeling and thus will be subject to the AEDM provisions, which are virtually unchanged by this proposal.

Instead, the changes should provide more clarity to manufacturers about the testing required, which should increase the consistency between representations based on the three testing options discussed in the next section. DOE does not expect these changes to have any impact on manufacturer ratings (*i.e.,* energy efficiency representations) or compliance, because, in principle, an independent testing laboratory (under the proposed definition of "independent") should obtain measurements for a given sample of motors similar to those an in-house NIST/NVLAP-certified laboratory would have reached.

2. Submittal of a Certification Report

As stated above, under this proposal, a manufacturer of electric motors regulated under 10 CFR part 431 would have three options when testing and certifying compliance with energy conservation standards: (1) A manufacturer can have the electric motor tested using a testing program that is nationally recognized in the

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[6] Accreditation means recognition by an accreditation body that a laboratory is competent to test the efficiency of electric motors according to the scope and procedures given in the Test Method B of IEEE Std 112–2004 and CSA 390–10. See 10 CFR 431.12.

United States (as described in § 429.74 of this proposal) and then certify on its own behalf or have a third party submit the manufacturer's certification report; (2) a manufacturer can test the electric motor at a testing laboratory other than a testing program that is nationally recognized and then have a certification program that is nationally recognized in the United States (as described in § 429.73 of this proposal) certify the efficiency of the electric motor; or (3) a manufacturer can use an alternative efficiency determination method ("AEDM," discussed in section III.E of this proposed rule) and then have a third-party certification program that is nationally recognized in the United States (as described in § 429.73 of this proposal) certify the efficiency of the electric motor.

A manufacturer that chooses the first option must have its electric motors tested through a testing program that is nationally recognized under the proposed provisions of 10 CFR 429.74. Under this first option, after a manufacturer retains an independent testing laboratory to conduct electric motor testing, the manufacturer can use those test results to certify compliance to DOE itself or through a third-party representative, or the manufacturer may still choose to employ the services of a nationally recognized certification program.

A manufacturer using a nationally recognized testing program may use a third-party representative to complete certification reports on its behalf under the certification provisions at § 429.12(g) and (h). A third-party representative may be any party authorized by the manufacturer to complete the reports on the manufacturer's behalf; common third-party representatives are foreign OEMs and private testing laboratories. The third-party representative would certify the accuracy of the information it submits but is only performing the ministerial function of completing the report. A manufacturer using a testing program could employ the services of a certification program that is nationally recognized in the United States (under the proposed § 429.73) to submit the certification reports for the manufacturer. In that situation, the certification program would be acting as a third-party representative and may or may not be employed by the manufacturer to certify the compliance of the motors (*i.e.*, issue a certificate of conformity).

A manufacturer that chooses the second option tests its electric motors at the manufacturer's own testing laboratory or at any other testing laboratory that does not meet the proposed definition of "independent." In DOE's view, a supervised witness test at a manufacturer-owned laboratory does not meet the proposed definition of independent because the lab has financial ties to the manufacturer and would, therefore, fall under the second option. The manufacturer would employ a certification program that is nationally recognized in the United States (under the proposed § 429.73) to certify the efficiency of the electric motor basic models. The petition process and requirements for DOE to recognize third-party certification programs as nationally recognized in the U.S. would be part of new sections 10 CFR 429.73 and 429.75, and are more fully discussed in section III.F of this proposed rule.

A manufacturer that chooses the third option would conduct its testing to validate its AEDM at any testing laboratory. The manufacturer would apply the AEDM to determine the efficiency of its basic models, as long as the AEDM regulations are followed, but would be required to employ a third-party certification program that is nationally recognized in the United States to certify the efficiency of the electric motor basic models to DOE.

Under all three options, a manufacturer must itself certify to DOE the compliance of each basic model of the motors it manufactures and distributes in commerce in the U.S. As discussed in the October 1999 final rule, the statute requires a manufacturer to certify the compliance to DOE. That certification, in turn, must be based on the use of a nationally recognized, independent testing program or a nationally recognized certification program. A nationally recognized certification program would verify the reliability of testing, such as by reviewing a laboratory's protocols and procedures. But the nationally recognized certification program would not necessarily itself make the declaration to DOE that a manufacturer's motor complies with the applicable standard or has a given efficiency. The manufacturer itself remains responsible for stating that declaration, either directly or through a representative authorized to do so. *See* 64 FR at 54124 (October 5, 1999).

DOE anticipates that manufacturers using certification programs may often authorize their certification programs to provide the necessary declarations on their behalf. Indeed, some manufacturers may not often want to submit certifications directly. Nevertheless, DOE seeks comment regarding the conditions under which DOE should accept a certification submitted directly by a manufacturer that used a certification program to fulfill the certification testing requirements. DOE also requests comment regarding whether DOE should, in those cases, require the certification report to include a certificate of conformity or whether DOE should only require the certification report to identify the certification program used (with a certificate of conformity available from the certification program upon request by DOE).

DOE proposes conforming changes to 10 CFR part 431, including removal of existing provisions regarding the determination of efficiency (10 CFR 431.17), testing laboratories (10 CFR 431.18), DOE recognition of accreditation bodies (10 CFR 431.19), DOE recognition of certification programs (10 CFR 431.20), and procedures for the withdrawal of recognition for accreditation bodies and certification programs (10 CFR 431.21). The new provisions regarding certification of efficiency and associated requirements would be addressed in 10 CFR 429.63 (certification of electric motors), 429.70 (AEDMs), 429.73 (requirements for certification programs), and 429.74 (requirements for testing programs) and 429.75 (procedures related to independent testing programs and certification programs). DOE also proposes to remove 10 CFR 431.14, as the reference citations were provided solely for convenience.

DOE seeks comments on the three proposed options for manufacturers to use when conducting certification testing for electric motor compliance with energy conservation standards.

3. Sampling Plan

The current sampling requirements for electric motors were established through the October 1999 final rule. 64 FR at 54129. The current regulations require that each basic model must either be tested or rated using an AEDM. (10 CFR 431.17(a)) § 431.17 goes on to specify the requirements for use of an AEDM, including requirements for substantiation (*i.e.*, the initial validation) and verification of an AEDM. Those requirements ensure the accuracy and reliability of the AEDM both prior to use and then through ongoing verification checks on the estimated efficiency. (10 CFR 431.17(a)(4)) This verification can be achieved in one of three ways: through participation in a certification program; by additional, periodic testing in an independent lab; or by verification by a professional engineer. (10 CFR

431.17(a)(4)) For basic models that are not rated with an AEDM, paragraph (a)(5) of § 431.17 explains that a manufacturer may choose between either having a certification program certify a basic model's efficiency or conducting testing in an accredited laboratory. (10 CFR 431.17(a)(5)) It also explains that the motors tested to substantiate (*i.e.*, validate) an AEDM must either be in a certification program or must have been tested in an accredited laboratory.

Paragraph (b) of 10 CFR 431.17 provides further clarity regarding testing if a certification program is not used. Paragraph (b)(1) explains the criteria for selecting basic models (in an accredited laboratory) for certification testing and to substantiate (*i.e.*, validate) an AEDM. (*See* 10 CFR 431.17(b)(1), (b)(3)) Paragraph (b)(2) provides the criteria for selecting units for testing, including a minimum sample size of 5 units in most cases. For manufacturers using AEDMs, paragraph (b)(2) applies to those basic models selected for substantiating (*i.e.*, validating) the AEDM. (*See* 10 CFR 431.17(b)(2) and (3)) For manufacturers testing each basic model, paragraph (b)(2) applies to each basic model. (For manufacturers using a certification program, these selection and sampling requirements are specified in the certification program's operational documents.)

Rated Efficiency

Before distribution in commerce, electric motors manufacturers and private labelers of electric motors subject to energy conservation standards must submit a Compliance Certification to the Department that includes, among other things, a nominal full-load efficiency for each basic model. Provisions for determining a basic model's efficiency through testing or with an AEDM are currently described in 10 CFR 431.17. Included in this section are provisions to verify the nominal full-load efficiency of a basic model for which a certification program is not used. As part of these requirements, a sample (in most cases, five or more) must be tested for each basic model. The results of that sample are then evaluated to ensure that the average measured full-load efficiency of the sample is no less than a prescribed margin from the represented nominal full-load efficiency of the basic model, where the margin is part of a mathematical formula described in § 431.17(b)(2). The basic model is also evaluated using a second formula to verify that the measured efficiency of the least efficient tested motor in the sample is no less than a prescribed margin from the represented nominal full-load efficiency. (*See* 10 CFR 431.17(b).)

DOE imposes one set of sampling provisions for manufacturers to use when rating their products and a second set of sampling provisions for DOE to use when evaluating the compliance of those products. The sampling provisions for determining a represented value (*e.g.*, nominal efficiency) reflect the fact that an important function of represented values is to inform prospective purchasers how efficiently various products operate. In light of that purpose, DOE designed the regulation with respect to the represented value so that purchasers are more likely than not to get a unit that actually performs as efficiently as advertised. The enforcement statistical formulas are designed to determine if a basic model is compliant with the applicable energy conservation standard and are weighted in favor of the manufacturer to minimize the likelihood of erroneous noncompliance determinations. The certification statistical formulas are designed to protect purchasers; the enforcement statistical formulas are designed to protect manufacturers. DOE emphasizes that not every, individual unit of a motor basic model must be at or above the standard; however, the represented nominal efficiency must not exceed the population mean. NEMA previously stated that DOE's proposed requirement that the average efficiency of any sample to not be less than the represented efficiency places an unreasonable burden on manufacturers and would require that all electric motors be designed to substantially exceed the represented value in order to assure that any sample would pass the compliance test. (EE–RM–96–400, NEMA, No. 38 at pg. 3) The part 429 requirements ensure the tests of each basic model, whether for determining the model's efficiency or for the substantiation (*i.e.*, initial validation) of an AEDM, are based on a sample of units that is large enough to account for reasonable manufacturing variability among individual units of the basic model or variability in the test methodology such that the test results for the overall sample will be reasonably representative of the efficiency of the whole population of production units of that basic model. Under these certification statistical formulas, manufacturers can increase their sample size to narrow the margin of error.

After reviewing these various provisions for determining efficiency, DOE is concerned that its current provisions give rise to too high a risk that a manufacturer may state a nominal efficiency for a basic model that is greater than the actual population mean for that model. In the previous rulemaking, DOE adopted a formula under which a manufacturer could represent an efficiency of "RE" (*i.e.*, represented efficiency) only if the average full load losses of the sample are less or equal to 105 percent of the full load losses corresponding to the represented value, and if the minimum full load losses are less than or equal to 115 percent of the full load losses corresponding to the represented value. Because these formulas do not require the average full load efficiency of the sample to be at least equal to the represented value, DOE is concerned that these formulas create too large a likelihood that the average efficiency of a manufacturer's production of given basic model will actually be below the model's stated efficiency.[7]

Accordingly, DOE is proposing to adopt a variety of modifications to decrease that likelihood. DOE recognizes that these proposed changes might impact the ratings that manufacturers assign to their models and whether a given model would be deemed compliant with the standards. Whether and how the changes would affect a particular basic model, in either of these respects, would depend on the detailed distribution of efficiencies for units of that model. That distribution might vary by manufacturer or model. Therefore, although NEMA has previously represented that the actual population mean for a basic model will always be above the rated nominal efficiency (*see* NEMA, Docket EE–RM–96–400_Comment_23, p. 1), DOE is proposing to allow manufacturers to continue to use the current formulas for determining nominal efficiency and compliance until June 1, 2017. These new formulas would be used to demonstrate compliance with the standards for which compliance was required as of June 1, 2016.

DOE is proposing to adopt sampling provisions similar to those for other types of equipment for certifications of compliance with the 2016 standards and for representations of efficiency as of June 1, 2017. In past comments, NEMA has suggested that these sampling provisions would force manufacturers to "over design" the performance of their motors. *See* 64 FR 54129. However, if tests on a small sample produce a mean sample efficiency that is lower than what a manufacturer believes to be the true mean across manufactured units, the regulations would permit the manufacturer to enlarge the sample. The mean of a larger sample would tend to have smaller departures from the population mean.

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[7] The full load losses corresponding to a value of full load efficiency (FLE) are equal to the horsepower of the motor multiplied by (100/FLE–1).

Specifically, DOE proposes to adopt a sampling plan for certification testing of electric motors similar to those used for other consumer products and commercial equipment. Under the proposal, the represented efficiency could be no greater than the lesser of the arithmetic mean of the tested sample or the lower 97.5 percent one-tailed confidence limit of the true mean divided by 0.95. As further clarification, to determine the appropriate representative efficiency of a basic model, the results of at least five samples would be used to calculate both the arithmetic mean and the lower 97.5 percent one-tailed confidence limit of the true mean divided by 0.95. These two values are compared and whichever is lower creates an upper bound on the represented efficiency. For example, if the arithmetic mean is the lower value, then the represented efficiency of a basic model must be greater than or equal to the standard (the applicable nominal efficiency found at 10 CFR 431.25), but no higher than the arithmetic mean of the sample. Manufacturers can then determine the nominal full-load efficiency of a basic model by selecting an efficiency from the "nominal efficiency" column of Table 12–10, NEMA MG1–2009 that is not greater than the representative efficiency of the basic model.

In addition, the general sampling plan provisions at 10 CFR 429.11 would apply to both electric motors and small electric motors under the proposal (with the current minimum number of units per basic model that must be tested (five) superseding the general minimum sample size). The sampling provisions at 10 CFR 429.11 are also amended to state that if fewer than the minimum number of units required for testing is manufactured, each unit must be tested.

DOE proposes to insert the formulas from 10 CFR 431.17(b)(2)(i) and (ii) into a new section 10 CFR 429.138, which would contain product-specific provisions dealing with verification of representations. Because part 429 currently does not address any products with labeling requirements, DOE has no parallel provisions. This provision would be used to evaluate whether a representation is permitted for purposes of the prohibited acts related to labeling and representations. See section III.H.3 of this proposed rule for discussion.

Different sampling provisions apply during enforcement testing to determine noncompliance with the energy conservation standards. Those sampling provisions are discussed in detail in section III.H.3 of this proposed rule.

DOE requests comments on these proposals, specifically the proposed confidence intervals.

Use of Certification Programs

As discussed in section III.F.1 of this proposed rule, DOE is proposing to require that any motor rated using an AEDM must be certified by a nationally recognized certification program. DOE is proposing to make explicit that a certification program must conduct ongoing verification testing. DOE requests comment regarding whether DOE should more explicitly require specific sampling provisions for use in verification testing by certification programs and, if so, what those sampling requirements should be.

DOE is not proposing to change the current requirement to test a minimum of five units of a basic model to determine the represented efficiency (rating) of the basic model. DOE is also retaining the current provision that allows for testing of fewer than five individual units of a basic model if fewer than five units will be produced over a period of about 180 days, which is intended to address low-volume models. However, DOE is clarifying that the smaller sample size is only allowed for models rated based on testing (not for models used to substantiate (*i.e.*, validate) an AEDM).

DOE is also not proposing to change the requirement that at least five units of each basic model must be tested to substantiate (*i.e.*, validate) an AEDM. These two provisions combined ensure that an AEDM is based on testing of at least five units of at least five basic models. DOE is not proposing to change the requirements for selection of the basic models used to substantiate (*i.e.*, validate) an AEDM but is proposing to remove the note: "[c]omponents of similar design may be substituted without requiring additional testing if the represented measures of energy consumption continue to satisfy the applicable sampling provision" because the basic model concept permits manufacturers to test representative units and group similar models without additional testing.

Use of Testing Programs

Similarly, DOE is not proposing to change the current requirement to test a minimum of five units of a basic model to determine the represented efficiency (rating) of the basic model. DOE is also retaining the current provision that allows for testing of fewer than five individual units of a basic model if fewer than five units will be produced over a period of about 180 days, which is intended to address low-volume models. DOE is clarifying that, if testing is conducted through an independent testing program that is nationally recognized, then each basic model must be tested.

4. Certification

While the current regulations in 10 CFR part 431 only require electric motor manufacturers to certify compliance before a basic model is distributed in commerce for the first time (see 10 CFR 431.36), this proposal would also require electric motor manufacturers to certify compliance annually. (See 76 FR 12422, 12424–12425 (March 11, 2007) for a discussion of the rationale for this change.) Although annual certification would be required, additional testing would not be required as long as the represented nominal efficiency continued to remain valid (*e.g.*, the manufacturer did not make changes to a given basic model that would result in a less efficient motor). A manufacturer could conduct periodic testing of the basic model as part of its quality assurance process, but it would be at the discretion of the manufacturer. There would be no requirement to perform additional testing (apart from any verification testing requirements associated with the use of an AEDM or certification body).

As part of these proposed changes, DOE would also require electric motor manufacturers to certify their products using the more detailed certification report at 10 CFR 429.12(b) in place of the current certification report described at 10 CFR part 431, appendix C to subpart B. Importers, which are manufacturers under EPCA, would be required to certify the compliance of the electric motors they import. Under the proposed rule, private labelers would no longer be required to certify the compliance of the products they label. See 76 FR at 12427 (March 11, 2007) for a discussion of the rationale for this change.

Currently, DOE's regulations provide a manufacturer with two methods for submitting a certification to DOE that its electric motors comply with the prescribed energy conservation standards, as identified in § 431.36(d): (1) They can submit the certification electronically using the Certification Compliance Management System ("CCMS") found at *http://www.regulations.doe.gov/ccms;* or (2) they can submit a hard copy of the completed certification form via certified mail. (*See* 10 CFR part 429, subpart B, appendix C (providing an exemplary copy of the certification form.))

In this proposed rule, both 10 CFR 431.36 and 10 CFR part 431, appendix C to subpart B would be removed, which would eliminate the option of submitting a hard-copy certification report. In place of these provisions, the proposed rule would make electric motors subject to the general certification report requirements found at 10 CFR 429.12 and add certification report parameters for electric motors in paragraph (c) of the proposed 10 CFR 429.63. The general certification report requirements already contained in 10 CFR 429.12 require that, before distributing in U.S. commerce any basic model of a covered product or equipment subject to standards under EPCA, and annually thereafter, each manufacturer must submit a certification report to DOE certifying that each basic model meets the applicable energy conservation standard. In accordance with 10 CFR 429.12(h), all such reports must be submitted to DOE electronically using CCMS. The general components of each certification report are listed at 10 CFR 429.12(b) and (c) and are similar to the parameters currently reported by electric motor manufacturers.

DOE's current CCE regulations for products and equipment other than electric motors require certification of the compliance of each basic model (10 CFR 429.12), unlike DOE's current electric motor regulations in 10 CFR 431.36, which require the filing of a certification report for the least efficient basic model within each "rating" (as defined at 10 CFR 431.12).[8] This proposal would require the filing of certification reports for all basic models of electric motors. See 10 CFR 429.12(d). In other words, a manufacturer would need to certify any new basic model (but not each individual model) prior to distribution in commerce and to file certification reports every year thereafter. Discontinued basic models would be required to be reported on the annual report when production has ceased and the manufacturer is no longer offering the basic model for sale. See 10 CFR 431.12(f).

The proposed electric motors-specific certification report requirements would largely reflect the type of information already currently reported by electric motor manufacturers and includes: the electric motor equipment category as described at 10 CFR 431.25 (*e.g.,* fire pump electric motors); the horsepower on which the electric motor basic model was tested; the number of poles; the enclosure type (*i.e.,* open or enclosed); the rated voltage; the operating frequency; whether the basic model is subject to specific test procedure provisions listed in section 4 of appendix B to subpart B of part 431 and, if so, which provision(s); the represented nominal full-load efficiency and the represented total losses; the sampling methodology used; whether the represented values are based on testing in an independent testing laboratory or a nationally recognized certification program; and the name of the independent testing laboratory or nationally recognized certification program. Additionally, the manufacturer identification number or "MIN" applied to the relevant basic model must be provided. (*See* section III.A of this proposed rule for discussion of the proposal for a MIN.) The general certification report requirements at 10 CFR 429.12(b) would also apply to electric motors under this proposal.[9] (The represented full-load efficiency to be reported as part of a certification report is discussed earlier in this section.)

To conform with the proposed shifting of the compliance certification provisions for electric motors to 10 CFR part 429, DOE proposes to (1) amend 10 CFR 431.35 ("Applicability of certification requirements") to reflect that certification procedures are set forth in 10 CFR 429.12 and 429.63, (2) remove 431.36 ("Compliance certification"), and (3) remove appendix C to subpart B of part 431. The certification report requirements would be located at 10 CFR 429.12 and 429.63. DOE provides templates in Excel format at *https://www.regulations.doe.gov/ccms/templates.*[10]

DOE proposes that manufacturers would be permitted to continue certifying compliance for electric motors based on the current sampling provisions until July 1, 2017. As all electric motors subject to energy conservation standards that are currently distributed in commerce should have already been previously tested and certified by manufacturers, DOE proposes that manufacturers would submit the first certification report under the new certification provisions by November 1, 2016, if the final rule is issued by October 1, 2016, or otherwise by July 1, 2017—in which case, the certification would be based on testing in accordance with the new sampling plan. Any new basic models to be introduced to the U.S. market would be required to be tested using the new sampling plan and certification requirements starting 30 days following the publication of a final rule.

DOE requests comments on these proposals.

D. Small Electric Motor Certification and Compliance

This section, like the prior section, addresses each aspect of certifying small electric motors as compliant with the applicable energy conservation standards. Compliance with the energy conservation standards for certain small electric motors has been required since March 2015. DOE is proposing certification requirements specific to small electric motors. Existing provisions regarding the determination of efficiency (10 CFR 431.445), recognition of nationally recognized certification programs (10 CFR 431.447), and procedures for the withdrawal of recognition for accreditation bodies and certification programs (10 CFR 431.448) would be removed under this proposal. The new provisions regarding certification of efficiency and associated requirements would, consistent with DOE's overall approach for consolidating the locations of its certification and compliance provisions, be placed in 10 CFR 429.64, 429.70, 429.73, 429.74, and 429.75.

1. Certification Testing

In the 2012 test procedure final rule, DOE noted that there were no existing certification programs or independent testing laboratory accreditation programs for small electric motors. 77 FR 26630. Since that time, two entities have been recognized by DOE for classification as nationally recognized certification programs for small electric motors: UL Verification Services (78 FR 72077 (December 2, 2013)) and CSA Group (79 FR 24700 (May 1, 2014)). DOE has also identified three test laboratories that are accredited by the NIST/NVLAP program to perform the IEEE 114–2010 test procedure, which DOE requires when testing single-phase small electric motors.[11] These labs are also accredited to perform IEEE 112–2004 Method B, which is the required DOE test method for polyphase small electric motors of greater than 1 horsepower. When testing polyphase small electric motors of 1 horsepower or less, DOE requires the use of IEEE 112–2004 Method A. Although DOE has not identified any laboratories accredited by NVLAP to perform Method A testing, NVLAP's listing of labs accredited to perform IEEE 114 testing also covers the CSA equivalent to Method A.[12]

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[8] Manufacturers are not currently required to certify to DOE the compliance of basic models within the same "rating" (as defined at 10 CFR 431.12) that are more efficient than the certified basic model.

[9] These requirements include: manufacturer's name and address; private labeler's name and address (if applicable); brand name; basic model number and individual manufacturer's model numbers covered by that basic model; whether the submission is for a new model, a discontinued model, a correction to a submitted model, a carryover model, or a model in violation of a voluntary industry certification program; the test sample size; whether certification is based on a test procedure waiver; whether certification is based on exception relief from DOE's Office of Hearing and Appeals; and whether certification is based on an AEDM. *See* 10 CFR 429.12(b).

[10] DOE will provide a revised template in Excel format for certification of electric motors and a new template for small electric motors after DOE has finalized certification requirements for this equipment; however, commenters may wish to familiarize themselves with existing templates for electric motors and other products to understand better the proposals in this rule.

In light of these developments, and to conform the small electric motor regulations with those proposed for electric motors, DOE is proposing that small electric motor manufacturers follow the same efficiency testing and certification procedures, which would be included in the testing and sampling provisions applicable to small electric motors in § 429.64. As described in detail previously, manufacturers would have three options when testing and certifying compliance with energy conservation standards: (1) A manufacturer could test the small electric motor using a testing program nationally recognized in the United States (as described in § 429.74 of this proposal) and then certify that motor on its own behalf or have a third party submit the manufacturer's certification report; (2) a manufacturer could test the small electric motor at a testing laboratory other than a nationally recognized testing program and then have a third-party certification program that is nationally recognized in the United States (under § 429.73 of the proposal) certify the efficiency of the motor; or (3) a manufacturer could use an AEDM (as discussed in section III.E of this proposed rule) to model the energy efficiency performance of the small electric motor and then have a third-party certification program that is nationally recognized in the United States (under § 429.73 of the proposal) certify the efficiency of the motor on the manufacturer's behalf. DOE notes that, unlike with electric motors (*see* 42 U.S.C. 6316(c)), the statute does not require manufacturers of small electric motors to certify that a small electric motor meets the applicable standard through an independent testing or certification program nationally recognized in the United States. Therefore, DOE could adopt another framework[13] for certification testing of small electric motors and is proposing the same framework as electric motors only for consistency.

DOE requests comments on this proposal.

DOE notes that Baldor had previously submitted a letter to DOE identifying a number of issues related to the certification of small electric motors. (Baldor, No. 1) In its letter, Baldor indicated that DOE's regulations specifying additional instructions when a certification program is not used found at § 431.445(c) are unclear. Baldor stated that there is no provision in § 431.445(c) requiring basic models to be tested in accordance with the DOE test procedure. (Baldor, No. 1 at p. 5) While DOE believes that the language at 10 CFR 431.444 makes clear that the efficiency of small electric motors must be determined with the DOE test procedure, this proposed rule moved and reorganized the provisions for certification testing to § 429.64. DOE welcomes comments regarding the clarity of the text proposed for § 429.64.

2. Sampling Plan

In general, DOE requires represented values to be determined by the application of basic statistical concepts. Baldor requested that DOE clarify some of these concepts. Specifically, Baldor commented that the term "population" used in the definition of average full-load efficiency was unclear. (Baldor, No. 1 at p. 2) The terms "population" and "sample" are standard statistical concepts. A population of objects consists of all the objects that are relevant in a particular study.[14] A population of small electric motors consists of all the small electric motors produced for a basic model. As Baldor states, testing all the units of a basic model to determine the mean of the full-load efficiency of the total population is not practical. (Baldor, No. 1 at pp. 2 and 3) For this reason, DOE only requires manufacturers to test a sample of the population in order to make inferences about the basic model's population. DOE assumes that its covered products have a normal efficiency distribution and uses Student's t-distribution to estimate numerical characteristics of a population. This document proposes to require using a sampling plan specific to small electric motors to allow a manufacturer to make representations of average full-load efficiency and other energy consumption metrics for its basic models.

DOE believes it is likely that the sources of variation in the testing of small electric motors that would affect the statistical validity of small electric motor testing results will be substantially similar to those for electric motors. This belief is based on the fact that small electric motors and electric motors overlap considerably in structure, function, input materials, and manufacturing processes—all of which contribute to variability in overall equipment performance in a similar manner for both electric motors and small electric motors. In addition, small electric motors are tested using methods similar to those for electric motors. On this basis, DOE proposes to adopt certification testing sampling requirements for small electric motors similar to those for electric motors.

Specifically, DOE proposes that the represented efficiency cannot exceed the lesser of the arithmetic mean of the tested sample or the lower 97.5 percent confidence limit of the true mean divided by 0.95. The represented total losses would be no lower than the greater of the arithmetic mean or the upper 97.5 percent confidence limit of the true mean divided by 0.95. In addition, as required with electric motors, at least 5 units per basic model must be tested to determine the represented efficiency (rating) of the basic model. For low-volume models with fewer than five individual units of a basic model produced over a period of about 180 days, DOE proposes to require that each unit manufactured be tested and the manufacturer must certify the average full-load efficiency for the low-volume basic model. This certification sampling plan would be placed in a new § 429.64.

Different sampling provisions apply during enforcement testing to determine noncompliance with the energy conservation standards. Those sampling provisions are discussed in detail in section III.H.3 of this proposed rule.

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[11] The list of test laboratories accredited by NVLAP to perform energy efficiency testing of electric motors, as of June 10, 2016, is available in the docket at *https://www.regulations.gov/?#!documentDetail;D=EERE-2014-BT-CE-0019-0002.*

[12] Small electric motor test procedures are detailed at 10 CFR 431.444. In this section, DOE identifies the C747 procedure as the CSA equivalent test method for testing of polyphase small electric motors of less than or equal to 1 horsepower. Although the NVLAP accreditation is not explicit, the C747 accreditation covers testing of both single-phase small electric motors and polyphase small electric motors of less than or equal to 1 horsepower.

[13] Based on the comments received, DOE would consider adopting provisions akin to those for most other types of covered products/equipment, which rely entirely upon manufacturer self-certification. Another possibility would be to adopt provisions akin to those for certain lighting products, which require all certification testing to be conducted by an accredited laboratory.

[14] Wilcox, Rand R. *Basic Statistics: Understanding Conventional Methods and Modern Insights.* New York: Oxford UP, 2009: 4. Print.

DOE requests comment on this proposal.

3. Certification Reports

There are currently no regulatory requirements governing the submission of certification reports specifically for small electric motors. This document proposes product-specific certification provisions for small electric motors that would appear in a new § 429.64(c). The general certification report requirements are described more fully in section III.C.3 of this proposed rule. The proposed certification report requirements that would apply specifically to small electric motors include: small electric motor type as described at 10 CFR 431.446(a), the horsepower on which the basic model was tested, the number of poles, the represented average full-load efficiency, the represented total losses, the MIN applied to the basic model, whether the represented values are based on testing in an independent testing laboratory or nationally recognized certification program, and the name of the independent testing laboratory or nationally recognized certification. DOE requests comment on the product-specific certification requirements proposed for small electric motors.

In its letter, Baldor stated that there is no requirement that a manufacturer obtain approval of compliance from DOE before entering any small electric motor into commerce. (Baldor, No. 1 at p. 7) DOE confirms that it does not issue any notice of approval once a manufacturer has certified compliance of its basic models. Manufacturers are responsible for ensuring that their products are compliant with the applicable provisions found at 10 CFR parts 429 and 431. As part of the certification report, DOE requires a manufacturer to submit a compliance statement acknowledging its responsibility.

DOE proposes to require manufacturers of small electric motors to submit the first certification report 90 days after publication of a final rule.[15]

E. Alternative Methods for Determining Energy Efficiency or Energy Use

Under current DOE regulations for both electric motors and small electric motors, a manufacturer can determine that the electric motor or small electric motor complies with energy conservation standards either through testing or through the use of an AEDM for determining energy efficiency or energy use that meets the requirements of 10 CFR 431.17(a)(2) and (3) for electric motors or 10 CFR 431.445(a)(2) and (3) for small electric motors. DOE proposes to retain these AEDM-based options but to move them from 10 CFR 431.17 and 10 CFR 431.445 to 10 CFR 429.70, the location of the AEDM provisions for other covered products and equipment. Moreover, this proposed rule would adjust the structure of the AEDM requirements for electric motors and small electric motors to more closely conform to the general format of the other 10 CFR 429.70 provisions, including appropriate references to other sections of part 429 and part 431 where required, although the requirements for using an AEDM for electric motors and small electric motors effectively remain the same. Further, DOE proposes to change the term "substantiation" to "validation" to better align the relevant terminology with the AEDM provisions in 10 CFR 429.70. Finally, DOE proposes to modify one of the requirements for selecting small electric motor basic models for validation testing. Within the context of the certification scheme described previously, manufacturers using an AEDM in lieu of testing would be required to rate their motors using an AEDM and certify compliance of their basic models through a nationally recognized certification program for those basic models of electric motors and small electric motors not tested.

DOE received a letter from Baldor requesting that DOE clarify the substantiation (*i.e.*, validation) requirements for AEDMs for small electric motors. Baldor stated that there are no requirements as to how to select the basic models used for substantiation (*i.e.*, validation), there are no requirements specifying the minimum number of units tested for each basic model, and there is no defined test procedure for measuring the efficiency of each basic model. Baldor commented that the AEDM provisions could be improved by directly referencing the requirements for selecting basic models found at 10 CFR 431.445(c)(1). (Baldor, No. 1 at pp. 4 and 6)

As part of this proposal to move the AEDM provisions to § 429.70, DOE is reorganizing these provisions for clarity. As previously stated, in today's notice DOE is proposing to use the term "validation" instead of "substantiation." Section 429.70(i)(2) specifies how to validate an AEDM. This section states how many basic models are required for validation, explicitly references the test procedure for small electric motors, and explains how the test results must compare to the results produced by the AEDM. Additionally, § 429.70(i)(3) details specific instructions for selecting basic models for validation.

In addition to reorganizing the AEDM provisions for small electric motors, DOE is proposing to modify one of the requirements for selecting small electric motor basic models for validation testing. Currently, small electric motor manufacturers must adhere to the provisions in 10 CFR 431.445(c)(1) to select basic models for validation testing. One of these provisions states that at least one basic model is selected from each of the frame number series for which the manufacturer is seeking compliance. DOE proposes to change that language to better align with the requirements for electric motors by amending the requirement to state that no two basic models may have the same frame number series. DOE believes that this proposed language would reduce small electric motor manufacturer testing burdens because it would not require a manufacturer to test more than five motor basic models even if the manufacturer is validating an AEDM that will apply to more than five frame number series of motors. DOE requests comment on this proposal.

F. Independent Testing and Certification Programs Classified by DOE as Nationally Recognized

Under 42 U.S.C. 6316(c), DOE must require manufacturers of electric motors for which energy conservation standards are established at 42 U.S.C. 6313(b) to certify, through an "independent testing or certification program nationally recognized in the United States" that such electric motor meets the applicable standard. DOE developed a process for national recognition of certification programs, which is codified at 10 CFR 431.20 and 431.21. On May 4, 2012, DOE added the same requirements for small electric motors. *See* 77 FR 26639–26640 (codified at 10 CFR 431.447 and 431.448).

In its prior comments regarding the certification of small electric motors, Baldor stated, "even if a certification program is used . . . it is still mandatory that the average full-load efficiency of any basic model being certified under the program be determined in accordance with DOE test procedure and not in accordance with any different procedures set forth in the certification program.'' (Baldor, No. 1 at p. Y) DOE affirms that regardless of whether a certification program is used or not, the average full-load efficiency of each basic model must either be determined in accordance with the DOE test procedure and sampling provisions or by applying an AEDM that meet the requirements set forth in the rule.

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[15] Pursuant to 10 CFR 429.12(i), a manufacturer is not required to submit a certification report for a product subject to an energy conservation standard for which the compliance date has not yet occurred. The certification report must be submitted not later than the compliance date for the energy conservation standard.

1. Petitions for Recognition

The petition requirements for DOE to recognize independent testing and certification programs as nationally recognized in the U.S. are proposed in a new section, 10 CFR 429.73 and .74 respectively. The proposed nationally recognized certification program petition process is nearly identical to the existing petition process in 10 CFR 431.20 (for electric motors) and 431.447 (for small electric motors). The proposal would remove the existing provision that a certification program must be qualified to operate a certification system ''in a highly competent manner,'' which is a subjective requirement. While DOE believes that this is a necessary attribute of such a program, DOE is proposing instead to specify individual characteristics that are more readily evaluated for a program seeking classification as a nationally recognized certification program. DOE believes this approach would provide improved transparency and equitability among programs. Petition requirements for both electric motors and small electric motors, which are identical except for references to ''small electric motor'' in lieu of ''electric motor,'' are both included in the proposed § 429.73.

In its prior comments, Baldor expressed confusion over the purpose of a certification program. It noted that there is no actual requirement in 10 CFR 431.447 that any testing be performed within the structure of the certification body. (Baldor, No. 1 at pp. 4–5)

The purpose of a nationally recognized certification program is to provide independent oversight of a manufacturer's representations of efficiency. For this reason, DOE is proposing that all nationally recognized certification programs have an ongoing verification testing process. DOE is proposing that petitioners provide documentation of their processes as part of the petition for recognition, including sampling provisions, selection criteria, a process for determining compliance with standards, and a process for reporting failures to DOE. DOE seeks comment regarding whether the UL and CSA small electric motors certification programs meet the criteria specified in this proposal and should remain nationally recognized certification programs under this proposal. Because DOE based its recognition of these programs in large part on DOE's prior recognition of their electric motors certification programs, DOE is also seeking comment regarding whether the UL and CSA electric motors certification programs meet the new criteria as specified in this proposal and should remain nationally recognized certification programs under this proposal. DOE requests comment regarding whether, in light of the changes to the petition criteria, the currently recognized certification programs should renew their petitions and DOE should conduct a new review for recognition under the new regulations once this rulemaking is finalized.

In contrast, the purpose of a nationally recognized independent testing program is to ensure that testing is being performed in a consistent manner without bias by personnel who have appropriate technical qualifications, appropriate equipment, and familiarity with DOE regulations. DOE is considering two possible approaches. One option would be for DOE to directly recognize testing facilities. The other alternative would be for DOE to recognize accreditation programs subject to those programs meeting specific criteria. In either instance, petitioners would be required to provide documentation as part of the petition for recognition. Both the accreditation program and the testing facilities would have to demonstrate independence under the proposed definition. The accreditation program and/or DOE would evaluate the capability of the testing facility to conduct repeatable, reliable testing. If DOE were to recognize accreditation programs, DOE would evaluate the capability of the program to accredit testing facilities in a manner consistent with the proposed requirements.

2. DOE Petition for Recognition and Withdrawal

DOE's proposes to move the procedures for the recognition and withdrawal of recognition of certification programs to 10 CFR 429.75. The proposed procedures for petitioning DOE to review a given recognition or withdrawal are similar to those procedures currently found at 10 CFR 431.21 (for electric motors) and 431.448 (for small electric motors), with a few exceptions, as follows. This proposal would require the submission of these petitions via email. Current requirements provide for a published, interim determination and solicitation of comments on that determination before announcement of a final determination. (*See, e.g.,* 10 CFR 431.21(d).) Because the current process (and the process proposed here) already allows for public comment on the petition under consideration and provides the petitioner with 10 working days after receipt of comments to respond to these comments, DOE does not believe a second round of comments on a pending petition is necessary and proposes to remove that provision from the current requirements. However, DOE may allow for a second round of comments if deemed necessary based upon specific circumstances. The same processes would apply to the recognition of independent testing programs.

This proposed rulemaking offers a more detailed process for the withdrawal of recognition than is currently provided. If DOE believes that an independent testing or certification program that has been recognized under the proposed §§ 429.73 and 429.74 fails to meet the criteria outlined in that section, DOE may initiate withdrawal of the program after providing written notification to the affected program describing the corrective action that must occur to comply with the criteria in the proposed 10 CFR 429.73(c) and (d) or 429.74(c) and (d) and associated timeframes within which the program must complete the prescribed corrective actions, which in no case will exceed 180 days. The program would be provided 30 days to respond to DOE's notification of withdrawal if it wishes to dispute DOE's basis for the determination. After the period for corrective action has passed, DOE will withdraw recognition from that program if the specified corrective action has not been taken. This proposal would also explicitly provide any party aggrieved by an action under this section with the right to file an appeal with DOE's Office of Hearings and Appeals, as provided in 10 CFR part 1003, subpart C.

Under the proposed § 429.75, independent testing or certification programs would also be permitted to voluntarily withdraw from recognition, which is what current §§ 431.21(g)(2) (for electric motors) and 431.448(g)(2) (for small electric motors) already permit. This proposal would add that the voluntary withdrawal notice to DOE must include the date on which the withdrawal is effective, the product or equipment types covered by the certification program to be withdrawn, and any effect the withdrawal has on the validity of certifications previously issued by the certification program. DOE would also require that withdrawal notifications be received by DOE at least

30 days prior to the effective date of withdrawal. Finally, DOE proposes to continue to publish in the **Federal Register** a notice of withdrawal of recognition, except that the notice would now include all of the required information in the program's voluntary withdrawal notice.

G. Labeling

Under the current labeling requirements at 10 CFR 431.31, electric motor manufacturers must mark the permanent nameplate of those motors subject to the energy conservation standards in § 431.25 with the motor's nominal full-load efficiency and the CC number issued to the manufacturer pursuant to 10 CFR 431.36(f); manufacturers may also include an optional display with the encircled lowercase letters "ee" or with a comparable designation if the electric motor meets the standards in § 431.25.[16] DOE proposes to retain the requirement for manufacturers of electric motors to include certain information on the nameplates of motors covered by DOE efficiency standards, but with modifications to the current requirements. DOE is also proposing to require labels on small electric motors. These proposals are described in more detail in the following sections.

1. Electric Motors

DOE proposes to require electric motor manufacturers to place on the nameplate the motor's represented full-load efficiency, derived from the electric motor's average full-load efficiency as determined pursuant to § 429.63(a). This proposed approach is similar to the current requirement except that the labels currently must display the electric motor's nominal full-load efficiency. In contrast, this proposal would allow manufacturers to use the represented efficiency rating determined in accordance with § 429.63. DOE would also require that, in place of the CC number currently used on electric motor nameplates, the nameplate bear instead the MIN issued to the manufacturer as described in section III.A of this proposal. DOE proposes to remove the "optional display" provision at 10 CFR 431.31(a)(3). DOE is also proposing that any voltages manufacturers place on the label constitute the motor's rated voltages and that the electric motor must meet the standard at that (or those) rated voltage(s). See section III.I of this proposed rule for more discussion of this issue. Finally, the proposal would relocate the labeling requirements for electric motors from § 431.31 to a new § 429.76 in 10 CFR part 429.

DOE requests comment regarding whether model number, basic model number, or some other type of design information should be required on the nameplate to permit DOE and customers to tie a certification of compliance to a particular unit being distributed in commerce. DOE also requests comment regarding whether manufacturers could transition to any new nameplate requirements by June 1, 2017.

Additionally, DOE is proposing to retain the current requirement in 10 CFR 431.31(b) that the same information that appears on the motor's nameplate also appear on each page of a catalog that lists the motor and in other materials used to market the motor. However, DOE would not require the MIN to be repeated in catalog and other marking materials. These requirements would be moved to § 429 .76 with the other labeling requirements for electric motors.

Section 431.32 of 10 CFR part 431 contains a provision explaining that the labeling requirements of § 431.31 supersede any State regulation and that, pursuant to the Act, all State regulations that require the disclosure for any electric motor of information with respect to energy consumption, other than the information required to be disclosed in accordance with this part, are superseded. This provision would also apply to the requirements proposed in this notice. DOE proposes to retain this provision in the regulations, but to relocate it to the proposed § 429.76 with the other labeling requirements.

2. Small Electric Motors

As required by EPCA, DOE is proposing to require small electric motors to bear a label similar to the existing requirements for electric motors. Specifically, DOE is proposing to require that small electric motors for which standards are prescribed in 10 CFR 431.446 bear a permanent nameplate that is marked clearly with the small electric motor basic model's MIN and represented average full-load efficiency as certified pursuant to 10 CFR 429.64. In this case, "prescribed" means a small electric motor for which a standard has been set, even if compliance with that standard is not yet required. In addition, all orientation, spacing, type sizes, type-faces, and line widths to display this required information would be required to be the same as, or similar to, the display of any other performance data on the motor's permanent nameplate, with the represented full-load efficiency identified either by the term "Represented Average Full-Load Efficiency" or "Rep. Avg. Full-Load. Eff.", and the MIN presented as "MIN: ______".

In considering whether the electric motors regulatory language is appropriate for small electric motors without modification, DOE requests comment regarding whether small electric motors currently, always, bear a "nameplate" or whether other forms of labeling should be permitted. As with electric motors, DOE also requests comment regarding whether DOE should require some specific model, basic model, or other design-specific information to be displayed on the nameplate. Labeling of small electric motors would be required six months following the publication of the final rule. DOE is proposing that only small electric motors manufactured in the U.S. (including motors imported into the U.S.) starting on that date bear a label when distributed in commerce and that this requirement would apply irrespective of when compliance with standards is required (*e.g.*, small electric motors that qualify for the 2017 compliance date would also be subject to the labeling requirement as of six months following publication of the final rule).

H. Enforcement Provisions for Electric Motors and Small Electric Motors

As for other types of covered products and equipment, DOE's current regulations for electric motors in part 431 prescribe an enforcement process through which DOE determines whether an electric motor manufacturer is in violation of the energy conservation requirements of EPCA. The enforcement provisions for electric motors are currently located at 10 CFR part 431, subpart U. These provisions identify prohibited acts that may subject a manufacturer to civil penalties if the manufacturer is found by DOE to have committed them knowingly. These prohibited acts include distribution in commerce of an electric motor that does not comply with the applicable energy conservation standard. Subpart U also details an enforcement process DOE uses to determine whether a particular motor complies with the applicable energy efficiency standards, the conditions under which a manufacturer must cease distribution of a basic model, remedies for addressing cases of noncompliance, and a process for the assessment and recovery of civil penalties. These provisions are similar to the general enforcement provisions applicable to other types of products and equipment, including small electric motors, which are found in 10 CFR part 429, subpart C.

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[16] Whether a particular covered motor must comply with the energy conservation standards is based on its date of manufacture (*i.e.*, importation, if manufactured outside the U.S.).

DOE is proposing to apply the same enforcement provisions in subpart C to part 429 that apply to all other types of covered products and equipment to electric motors. These provisions are similar to the current provisions in subpart U to part 431, but with certain specific differences, as described in the following sections. There are also several proposed prohibited acts regarding electric motors and small electric motors that reflect the unique statutory provisions for each type of equipment. The proposed rule removes the enforcement provisions currently in place for electric motors from 10 CFR part 431, subpart U, and moves them to a new 10 CFR 429.110 and moves the enforcement sampling provisions to a new appendix D to subpart C of part 429. Subpart U would be reserved in the proposed rule.

1. Prohibited Acts and Remedies

The prohibited acts provisions currently applicable to electric motors differ somewhat from those of other covered products and equipment, namely, by describing specific prohibited acts related to violations of the labeling and advertisement requirements applicable to electric motors. Thus, DOE is proposing to add these prohibited acts, which are currently listed in 10 CFR 431.382(a)(1), (2), and (4), to 10 CFR 429.102. The inclusion of electric motors in § 429.102 would also clarify that four additional prohibited acts not currently specified in § 431.382 also apply to electric motor manufacturers, which, as discussed in the March 7, 2011 CCE final rule (*see* 76 FR at 12440), are within the scope of the prohibited acts specified in EPCA at 42 U.S.C. 6302 (*See 42 U.S.C. 6316(a).*) These include prohibitions against the following actions: Failure to test any covered product or covered equipment subject to an applicable energy conservation standard in conformance with the applicable test requirements prescribed in 10 CFR parts 430 or 431 (§ 429.102(a)(2)); deliberate use of controls or features in a covered product or covered equipment to circumvent the requirements of a test procedure that produce test results that are unrepresentative of a product's energy or water consumption if measured pursuant to DOE's required test procedure (§ 429.102(a)(3)); distribution in commerce by a manufacturer or private labeler of a basic model of covered product or covered equipment after a notice of noncompliance determination has been issued to the manufacturer or private labeler (§ 429.102(a)(7)); and knowing misrepresentation by a manufacturer or private labeler by certifying an energy use or efficiency rating of any covered product or covered equipment distributed in commerce in a manner that is not supported by test data (§ 429.102(a)(8)).

For small electric motors (and distribution transformers and high-intensity discharge ("HID") lamps for which standards are set pursuant to 42 U.S.C. 6317), 42 U.S.C. 6316(a) provides that the prohibited acts in 42 U.S.C. 6302 apply to those types of equipment. Prohibited acts at 42 U.S.C. 6302(a) (*i.e.,* distributing in commerce new products/equipment that are not labeled as required and removing or rendering illegible any required label) do not apply to small electric motors because these acts only apply to types of equipment with labeling provisions promulgated pursuant to 42 U.S.C. 6294 and small electric motor labeling provisions are promulgated pursuant to section 6317. Accordingly, in 42 U.S.C. 6317(f)(1)(A), Congress created prohibited acts identical in effect to those found at section 6302(a)(1) and (2) that apply to small electric motors (and distribution transformers and HID lamps). Therefore, it would be a prohibited act for any manufacturer or private labeler to distribute in commerce a unit that is not labeled as required by 10 CFR 429.76, and it would be a prohibited act for a manufacturer or private labeler to remove or render illegible any label required by 10 CFR 429.76. These prohibited acts, which are identical to existing prohibited acts for electric motors that are proposed to be moved to paragraphs 11 and 12 at 10 CFR 429.102, would become enforceable with respect to small electric motors six months after publication of the final rule—*i.e.,* when labeling of small electric motors would be required. DOE notes that there is no statutory prohibited act for small electric motors akin to the prohibited act for electric motors that is proposed to be moved to paragraph 13, restricting representations in advertising materials.

In 42 U.S.C. 6317(f)(1)(B), Congress prohibited the distribution in commerce of a small electric motor that does not comply with the applicable standard. With respect to small electric motors that do not comply with the applicable standard, however, 42 U.S.C. 6302(a)(5) applies through application of 42 U.S.C. 6316(a). Thus, DOE concludes that section 6317(f)(1)(B) creates a new, different prohibited act regarding small electric motors—one that is tied to the labeling requirement. (See introductory text to 42 U.S.C. 6317(f)(1) "After the date on which a manufacturer must provide a label for a product pursuant to subsection (e) of this section . . .") DOE is proposing to add a prohibited act to § 429.102 that is specific to small electric motors to reflect the statutorily created prohibited act in 42 U.S.C. 6317(f)(1)(B). It would be a prohibited act for a manufacturer or private labeler to distribute in commerce any new small electric motor required to be labeled under 10 CFR 429.76 that is not in conformity with an applicable standard under 10 CFR 431.446. In most cases, a manufacturer can "sell-through" inventory of units manufactured prior to the compliance date for a new standard. This prohibited act specific for small electric motors would alter the typical transition for products subject to a new energy conservation standard. The statute requires that small electric motors bear a label six months after publication of the final rule. (42 U.S.C. 6317(e)) That means all small electric motors manufactured starting on that date will be required to bear a label. And since the statute makes it a prohibited act to distribute in commerce a small electric motor required to have a label if that small electric motor does not meet the applicable standard, 42 U.S.C. 6317(f)(1)(B), it is a prohibited act for a manufacturer or private labeler to distribute in commerce a new small electric motor if the following criteria are met: (1) The small electric motor was manufactured six months after the date of the final rule in this proceeding, (2) the small electric motor is a kind of motor for which DOE has prescribed a standard, (3) compliance with that standard is now required, and (4) the small electric motor does not meet that standard. Small electric motors not required to bear a label (*i.e.,* manufactured before six months after the publication of the final rule in this proceeding) and manufactured prior to the energy conservation standard compliance date would not be required to meet the standard and could continue to be distributed in commerce in the U.S. That is, "sell-through" would be permitted for motors manufactured prior to 6 months following publication of the final rule and would not be permitted for motors manufactured on or after the compliance date for the labeling provision.

DOE notes that manufacturers of small electric motors that qualify for the delayed compliance date of March 9, 2017, could be subject to the labeling requirement before a standard must be met, depending on the timing of the final rule. For example, if Manufacturer X manufactures a small electric motor on February 2, 2017, the motor would be required to be labeled (assuming that the final rule in this proceeding is published at least six months prior) under 10 CFR 429.76. If this motor qualifies for the 2017 delayed compliance date and does not conform to the 2017 standard as of that date of manufacture, the manufacturer could distribute this motor in commerce even though the motor would not conform to the standard specified in 10 CFR 431.446. However, as of March 9, 2017, if that small electric motor were still in stock, the manufacturer would be subject to civil penalties for distribution in commerce of that motor.

DOE proposes to add a new paragraph 14 to the list of prohibited acts at 10 CFR 429.102 for this prohibited act as follows: For any manufacturer or private labeler of a small electric motor to distribute in commerce any small electric motor required by [the proposed] § 429.76 to be labeled that is not in conformity with the relevant energy conservation standard found at 10 CFR 431.446.

2. Test Notices

Section 431.383 contains the enforcement process for electric motors, which is conducted when a basic model is suspected of noncompliance with the applicable standard. Paragraph (a)(1) of this section requires DOE to provide formal notification to a manufacturer that DOE has received information that one of the manufacturer's basic models may not comply with the applicable efficiency standard and that DOE intends to test the basic model to assess its compliance. This paragraph specifies that a test notice may only be issued after the Secretary or his or her designated representative has examined the underlying test data (or, where appropriate, data as to use of an AEDM) provided by the manufacturer and after the manufacturer has been offered the opportunity to meet with the Department to verify, as applicable, compliance with the applicable efficiency standard, or the accuracy of labeling information, or both. DOE eliminated this process for all other types of products and equipment in the March 2011 CCE rule. For the same reasons stated in that rulemaking (see 76 FR 12422, 12434–12435), DOE proposes to adopt for electric motors the process used in enforcement actions for other types of products or equipment.

In addition, 10 CFR 431.383 provides that, where compliance of a basic model was certified based on an AEDM, the Department has discretion to pursue the provisions of 10 CFR 431.17(a)(4)(iii) prior to invoking the test notice procedure and that a representative designated by the Secretary shall be permitted to observe any re-validation procedures, and to inspect the results of such re-validation. This process is addressed by the provisions applicable to the use of an AEDM that would be applied to electric motors through adoption of the proposed additions to 10 CFR 429.70 as well as the application of 10 CFR 429.71 to electric motors.

3. Enforcement Testing

In the event that DOE has reason to believe an electric motor is noncompliant with the applicable energy conservation standard, DOE may test that electric motor to verify whether it complies with the applicable standard. This process for electric motors currently is specified at 10 CFR 431.383. For all other products and equipment covered by DOE energy conservation standards, the enforcement testing process is in 10 CFR 429.110. DOE intends through this proposal to apply the requirements of § 429.110 to electric motors in place of § 431.383, which would alter the process by which enforcement testing is conducted for electric motors in certain respects. In addition to the process for issuing test notices, DOE notes that using § 429.110 in place of § 431.383 would result in the following changes: The maximum number of units that may be tested would increase from 20 to 21 units; enforcement testing would only be conducted by a laboratory that is accredited to the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), "General requirements for the competence of testing and calibration laboratories," ISO/IEC 17025:2005(E); and testing of additional unit(s) as a result of a defective unit in the initial sample would be at DOE's discretion.

In addition, 10 CFR 431.383(f) currently allows a manufacturer to request that DOE conduct additional testing (at the manufacturer's expense). DOE is not proposing to retain this provision in the proposed rule as the additional testing is not allowed for any other covered products or equipment. As stated in the March 7, 2011 CCE final rule, the Department removed the regulatory provision allowing manufacturers to request additional testing because it is both unnecessary—given that manufacturers are free to perform additional testing on their own at any time—and otherwise delays the finality of a compliance determination. 76 FR at 12438. Therefore, once a product has been found noncompliant by DOE as a result of this process, there would be no further option for additional testing.

Regarding enforcement sampling, DOE is proposing to move the current enforcement sampling plan for electric motors to a new appendix D to subpart C of part 429. DOE proposes to modify the new appendix D to reflect the maximum number of units that may be tested is 21. Additionally, DOE proposes to make these enforcement sampling provisions applicable to small electric motors. For small electric motors, DOE notes that 10 CFR 431.445 presents a formula for evaluating compliance. DOE proposes to retain this approach in appendix D, as it better ensures that DOE bases any final determination of compliance on a sufficiently large sample size and mitigates the risk of incorrect determinations of noncompliance. However, DOE requests comments regarding whether the formula currently in 10 CFR 431.445 should be retained for evaluation of representations, similar to the provision for electric motors that DOE has proposed to move to 10 CFR 429.138.

As part of the October 1999 rulemaking, NEMA commented argued that the sampling plan for enforcement testing does not yield an estimate of the true mean full-load efficiency of the population of motors because it incorrectly applies the t-distribution. The confidence interval for the true population mean efficiency should not be anchored to the energy conservation standard. (EE–RM–96–400, NEMA, No. 0J at p. 8) Baldor commented that the DOE statistical formulation has the potential to penalize those manufacturers that minimize the variation in efficiency from motor to motor (standard deviation). Baldor continued to explain that this is particularly true for a set of samples whose mean is slightly below the statutory efficiency. (EE–RM–96–400, Baldor, No. 0E at p. 6) DOE requests comment on alternative methods of evaluating compliance to ensure that manufacturers that can produce motors with low variability are not disadvantaged. DOE will consider adopting an alternative formula based on the comments received.

4. Notices of Noncompliance and Penalties

When DOE determines that a basic model of a covered product or type of covered equipment does not comply with the applicable energy conservation standard, or if a manufacturer or private labeler determines that a basic model is noncompliant, § 429.114 provides that DOE may issue a notice of noncompliance determination to the manufacturer. This notice explains to the manufacturer its obligations to: (1) Immediately cease distribution of the basic model; (2) immediately notify in writing those individuals to whom units of the basic model have been distributed about the finding of noncompliance; and (3) provide DOE with pertinent records about the manufacture and distribution of units of the basic model within 30 days of the proposed rule.

Similarly, § 431.385 requires electric motor manufacturers to: (1) Immediately cease distribution of the noncompliant basic model; (2) give immediate written notification of the determination of noncompliance to all persons to whom the manufacturer has distributed units of the basic model; and (3) provide DOE, within 30 calendar days of the notification, records, reports and other documentation pertaining to the acquisition, ordering, storage, shipment, or sale of a basic model determined to be in noncompliance. An electric motor manufacturer's obligations immediately after a determination of noncompliance would, therefore, be unchanged by applying the provisions of § 429.114 to electric motors in place of § 431.385.

Actions required following a finding of noncompliance are similar in scope between subpart U of part 431 and subpart C of part 429, except for certain minor differences. Section 431.385 provides, in paragraph (a)(4), that a manufacturer may modify a noncompliant model in such manner as to bring it into compliance with the applicable standard. Such modified basic model would then be treated as a new basic model and must be certified in accordance with the provisions of Subpart U, except that, in addition to satisfying those requirements, the manufacturer must also maintain records that demonstrate that modifications have been made to all units of the new basic model prior to distribution in commerce. These requirements are identical to those in § 429.114(d), except that the latter also requires that, after modifying a basic model to be compliant with DOE standards, the manufacturer must also assign new individual model numbers to the models within the basic model. This requirement would also apply to electric motors as a result of the changes proposed in this proposed rule.

Section 429.116 requires that, if DOE determines that independent, third-party testing is necessary to ensure a manufacturer's compliance with the rules of part 429 or part 431, a manufacturer must base its certification of a basic model under subpart B of part 429 on independent, third-party laboratory testing. No such provision exists in subpart U of part 431, but DOE is proposing to apply this provision to electric motors. Additionally, under section §§ 431.386 and 429.118, DOE has the option to seek a judicial order to stop distribution of a noncompliant model and may assess civil penalties for violations of such provisions. However, § 429.118 allows the use of an injunction for the purposes of enjoining any prohibited act, while § 431.386 applies only to distribution in commerce of noncompliance models. DOE is proposing to apply the broader injunctive authority in § 429.118 to electric motors. Finally, both subpart C of part 429 and subpart U of part 431 define processes for assessing and collecting civil penalties. Except for minor differences in wording and the format of statutory references, the process in § 431.387, which currently applies to electric motors, and §§ 429.122 through 429.132, which apply to other products and equipment, are substantially the same. Thus, DOE intends to apply these sections of part 429 to electric motors.

I. Other Revisions to Existing Electric Motors and Small Electric Motors Regulations

DOE proposes to add a sentence to 10 CFR 431.25 that would describe testing of electric motors rated for use at multiple voltages, such as on a 230- or 460-volt electrical system, to address questions that DOE has received over the past year. The test procedures specified in appendix B to subpart B of part 431 require the basic model to be tested at the rated voltage, without specifying what to do when a manufacturer elects to include multiple rated voltages on the nameplate and marketing materials. DOE is clarifying in this proposed rule that the basic model of electric motor must be tested and meet energy conservation standards at all of the voltages for which the electric motor is rated by the manufacturer to be used.

For example, some motors are labeled with a voltage rating of 208–230/460 volts, while others are marked as "230/460V Usable at 208V." In DOE's view, at any voltage at which the manufacturer declares that an electric motor may be installed and operated by making a representation in its literature or its nameplate, the electric motor must meet the standards when measured by the DOE test procedure. DOE proposes that only the lowest efficiency (when tested and rated for multiple voltages) be placed on the nameplate.

DOE requests comment on whether there should be some indication of which rated voltage is the lower efficiency voltage corresponding to the rated efficiency. DOE notes that the certification report on file with DOE will indicate the corresponding voltage. DOE seeks comment on whether the additional information would provide sufficient benefit to purchasers to warrant the additional cost. DOE requests comment regarding whether, for each rated voltage, the manufacturer should also put a corresponding efficiency on the nameplate. DOE requests comment regarding the costs associated with requiring additional information on the nameplate.

DOE requests comment on whether similar provisions should be implemented for basic models of small electric motors as well. As DOE is proposing to require small electric motors to bear a label, DOE requests information as to whether small electric motors will list multiple rated voltages on such label. If comments suggest that DOE should implement similar provisions, then DOE will consider adopting those requirements in the final rule.

This proposed rule would also clarify which small electric motors would be subject to energy conservation standards in 10 CFR 431.446 in light of the statutory exclusion for those small electric motors that are components of covered products or covered equipment.

Small electric motors that are a component of another covered product under 42 U.S.C. 6292(a) or covered equipment under 42 U.S.C. 6311 are not subject to energy conservation standards. (42 U.S.C. 6317(b)(3)) Therefore, a small electric motor that is distributed in commerce (*i.e.,* sold or imported) separately—*i.e.,* not integrated into another covered product/equipment—is subject to the standards. DOE considered another interpretation of this provision—excluding small electric motors "intended" to be used in a covered product/equipment—but DOE rejected that interpretation. This rejection is based on the fact that all small electric motors for which energy conservation standards have been set are general purpose motors—not specific or definite-purpose motors—so no small electric motor that would otherwise be subject to standards has any defining features or characteristics to identify it as "intended" for use in a covered product/equipment. DOE also rejected this interpretation because the plain language of section 6317(b)(3) designates "any small electric motor which is a component" as exempt from standards and a determination of whether a national standard applies is made at the time of manufacture under EPCA.

The prohibition on distributing in commerce a non-compliant small electric motor in 42 U.S.C. 6317(f)(1)(B) centers on the time of distribution in commerce. Reading 42 U.S.C. 6317(b)(3) in conjunction with 42 U.S.C. 6317(f)(1)(B), the determination of whether a small electric motor meets energy conservation standards would be made no later than when the manufacturer or private labeler *of the small electric motor* distributes the motor in commerce in the U.S. Further, because the purpose of this provision appears to be to exempt small electric motors that are already effectively being regulated through the implementation of a standard for another type of covered product or equipment, DOE interprets this provision as exempting small electric motors that are distributed in commerce as a component of a type of covered product or equipment that is currently subject to a standard. Small electric motors that are a component of a type of covered product or equipment that is not subject to a standard would not be exempt. Therefore, DOE concludes that, if a small electric motor is not already a component (of a covered product/equipment subject to an energy conservation standard) when it is distributed in commerce by the small electric motor manufacturer or private labeler, then it is subject to standards. Similarly, small electric motors imported prior to integration into a unit of another type of covered product/equipment also would be subject to standards upon importation. DOE proposes to add a new paragraph (d) to § 431.446 to explain this exclusion from standards.

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Orders 12866 and 13563

This regulatory action is not a "significant regulatory action" under section 3(f) of Executive Order 12866. Accordingly, this action was not subject to review under that Executive Order by the Office of Information and Regulatory Affairs ("OIRA") of the Office of Management and Budget ("OMB"). DOE has also reviewed this regulation pursuant to Executive Order 13563, issued on January 18, 2011. 76 FR 3281 (January 21, 2011). Executive Order 13563 is supplemental to and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866.

B. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) requires preparation of an initial regulatory flexibility analysis ("IRFA") for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, "Proper Consideration of Small Entities in Agency Rulemaking," 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site (*http://energy.gov/gc/office-general-counsel*).

For manufacturers of electric motor and small electric motors, the Small Business Administration ("SBA") has set a size threshold, which defines those entities classified as "small businesses" for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 65 FR 30836, 30848 (May 15, 2000), as amended at 65 FR 53533, 53544 (Sept. 5, 2000) and codified at 13 CFR part 121.The size standards are listed by North American Industry Classification System ("NAICS") code and industry description and are available at *http://www.sba.gov/content/table-small-business-size-standards.* Electric motor and small electric motor manufacturing is classified under NAICS 335312, "Motor and Generator Manufacturing." The SBA sets a threshold of 1,000 employees or less for an entity to be considered as a small business for this category.

DOE reviewed the certification and reporting requirements in this proposed rule under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. This proposed rule would make certain amendments to the existing certification requirements applicable to electric motors and would establish certification requirements for small electric motors. These proposed changes have potential impacts on electric motor manufacturers who will be required to revise their current certification process to comply with the proposed amendments, and have potential impacts on small electric motor manufacturers who must commence certification of products subject to an energy conservation standard. Based upon its review of these proposed amendments, DOE believes the changes to the compliance certification ("CC") number system is the only proposed amendment that would represent an increase in certification burden for electric motor manufacturers. For small electric motor manufacturers, DOE believes that the proposed certification requirements affecting these entities will result in reporting and record-keeping burdens commensurate with the estimates presented in DOE's review under the Paperwork Reduction Act, as discussed in section IV.C of this proposal.

DOE estimates that there are 13 small business manufacturers of electric motors and 9 of those manufacturers also make small electric motors. The estimate for small business manufacturers of electric motors is based upon the regulatory flexibility analysis conducted as part of the May 29, 2014 final rule establishing amended energy conservation standards for electric motors (79 FR 30934). In that rule, DOE calculated the number of electric motor manufacturers, including the number of manufacturers qualifying as small businesses, based on interviews with electric motor manufacturers and publicly available data. Since the promulgation of this rule, and after further examining the motor industry, which included surveying the motor industry and determining the number of manufacturers remaining, DOE has not discovered the presence of any new manufacturers of electric motors that would necessitate a change to this previous estimate. The estimate for small manufacturers of small electric motors is based on a market survey of publicly available information. DOE evaluated the manufacturers identified in the March 9, 2010 final rule establishing energy conservations standards for small electric motors (75 FR 10874) and manufacturers of electric motors identified in the May 2014 final rule (79 FR 30934) for product offerings meeting the definition of a small electric motor. From its market survey, DOE identified that 9 of the 13 small manufacturers of electric motors also manufacture small electric motors.

DOE then determined the expected impacts of the rule on affected small businesses and whether an IRFA was needed (*i.e.,* whether DOE could certify that this rulemaking would not have a significant economic impact on a substantial number of small entities).

For electric motors, for which DOE identified 13 manufacturers that are small businesses, the incremental burden associated with this rule is expected to be minimal. DOE already requires that manufacturers of electric motors test their motors according to a prescribed DOE test procedure and certify their efficiency to DOE prior to distributing them in commerce. DOE also has existing labeling requirements for electric motors and requires the use of a CC number on the label of each motor covered by an energy conservation standard. While this rule proposes no changes to the testing or certification requirements that would result in increased burden, and either makes clarifying changes to the regulatory text or relocates certain provisions from part 431 to part 429 without changing their effect, the proposed replacement of the CC number system with manufacturer identification number ("MIN") system may result in an incremental record-keeping burden, as well as certain financial burden associated with modifying labels on existing products to comply with the proposed requirements. However, because the proposed process for obtaining a MIN is essentially identical to the current process for obtaining a CC number, DOE believes that the one-time incremental burden associated with that change will be very low. With respect to the use of the MIN on product labels, DOE anticipates that the switch from CC numbers to the MIN could result in a one-time incremental burden for those existing models that will need their CC number replaced with a MIN. However, in reviewing the initial rulemaking that created the current requirement for manufacturers to include the CC number on the motor nameplate, DOE found that the estimate of burden was considered to be insignificant, and that no manufacturers provided comments disputing this finding. (*See* 61 FR 60440, at 60461 (November 27, 1996) and 64 FR 54114, at 54140 (October 5, 1999)) Thus, DOE similarly finds the replacement of the CC number with a MIN on the nameplates of covered electric motors would result in an insignificant incremental burden.

For small electric motors, for which DOE identified 9 manufacturers that are small businesses, the incremental burden associated with this rule is expected to be minimal. DOE currently requires small electric motor manufacturers to test their motors according to a prescribed DOE test procedure, and this document does not propose changes to these requirements that would result in increased burden. This proposal does, however, include certification and labeling requirements for small electric motors. While the certification and labeling requirements may result in an incremental record-keeping burden, DOE believes that this burden will be negligible. To the extent possible, DOE proposed consistent certification and labeling requirements for electric motors and small electric motors—and since electric motors and small electric motors are similar equipment types, DOE believes that these requirements will present an analogous burden. DOE reviewed its prior rulemakings that created labeling and certification requirements for electric motors manufacturers and found that the estimated burden was considered to be insignificant. No manufacturers disputed this finding. (*See* 61 FR 60440, at 60461 (November 27, 1996) and 64 FR 54114, at 54140 (October 5, 1999)) Therefore, DOE concludes that these same requirements will not have a significant impact on small business manufacturers of small electric motors.

Based on the criteria outlined above, DOE has determined that the proposed amendments to the certification, compliance, and enforcement requirements for electric motors and small electric motors would not have a "significant economic impact on a substantial number of small entities," and the preparation of a regulatory flexibility analysis is not warranted. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the Small Business Administration for review under 5 U.S.C. 605(b).

DOE seeks comment on its estimated additional costs from the proposed changes to the CC number system. Specifically, DOE seeks comment on the impacts of the additional cost of testing on small manufacturers. DOE also seeks comment on its reasoning that the proposed changes would not have a significant impact on a substantial number of small entities.

C. Review Under the Paperwork Reduction Act

Manufacturers of electric motors must certify to DOE that their equipment complies with any applicable energy conservation standards. This rulemaking adds small electric motor-specific certification provisions. In certifying compliance, manufacturers must test their equipment according to the DOE test procedures for electric motors and small electric motors, including any amendments adopted for those test procedures. The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act ("PRA"). This requirement has previously been approved by OMB under OMB control number 1910–1400 and was recently renewed to include small electric motors. As indicated in the supporting statement, DOE's renewal included revisions and expansion of the information collected on the energy and water efficiency of consumer products and commercial equipment manufactured for distribution in commerce in the United States. This proposal is not expected to increase burdens for manufacturers of electric motors or change the burden for manufacturers of small electric motors that otherwise would have been imposed as a result of having to comply with the existing certification requirements. Public reporting burden for the certification was estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

This proposed rule would require one party to submit a one-time request for a manufacturer's identification number ("MIN") for each manufacturer of electric motors or small electric motors. The MIN would be used on motor nameplates to identify the original equipment manufacturer and facilitate DOE's ability to contact the relevant party in the event of finding a noncompliant motor. DOE expects that completion of the form, including downloading the form, filling out the form, and submitting the form via email, would take approximately 5 minutes. Each manufacturer would only submit one form and would not have to submit a new form unless the contact information changed.

Notwithstanding any other provision of the law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this rule amends an existing rule without changing its environmental effect and, therefore, is covered by the Categorical Exclusion in 10 CFR part 1021, subpart D, paragraph

A5. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, "Federalism." 64 FR 43255 (Aug. 10, 1999) imposes certain requirements on Federal agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, "Civil Justice Reform," imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. 61 FR 4729 (Feb. 7, 1996). Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, this proposed rule meets the relevant standards of Executive Order 12988.

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 ("UMRA") requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed "significant intergovernmental mandate," and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820. DOE's policy statement is also available at *http://energy.gov/gc/office-general-counsel.* This proposed rule contains neither an intergovernmental mandate nor a mandate that may result in an expenditure of $100 million or more in any year, so these requirements do not apply.

H. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This proposed rule would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, "Governmental Actions and Interference with Constitutionally Protected Property Rights" 53 FR 8859 (Mar. 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

J. Review Under the Treasury and General Government Appropriations Act, 2001

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for Federal agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposal under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, "Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use" 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OIRA at OMB, a Statement of Energy Effects for any proposed significant energy action. A "significant energy action" is defined as any action by an agency that promulgates or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

DOE has tentatively concluded that this proposed rule, which would revise certification and compliance requirements for electric and small electric motors, is not a significant energy action because the proposed standards are not likely to have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as such by the Administrator at OIRA. Accordingly, DOE has not prepared a Statement of Energy Effects on the proposed rule.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; "FEAA") Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the FTC concerning the impact of the commercial or industry standards on competition. This proposal solely addresses certification provisions for electric motors and small electric motors. This proposal does not require or authorize the use of any commercial standards.

M. Description of Materials Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference standards published by the International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC). ISO/IEC 17025:2005(E) specifies general requirements for the competence of testing and calibration laboratories. ISO/IEC Guide 27 specifies methods of indicating conformity with standards for third-party certification systems. ISO/IEC Guide 17026:2015 gives general guidelines for a specific product certification system, including a third-party certification system. ISO/IEC Guide 17065:2012 specifies general requirements for third parties operating a product certification system. For a certification program to be classified by the Department as nationally recognized, it must meet certain criteria, including that the petitioning organization must describe its experience in operating a certification program, such as its experience applying the guidelines contained in ISO/IEC Guides 17025:2005(E), 27, 17026:2015, and 17065:2012.

These ISO/IEC guides are available at *http://www.iso.org/iso/home/store/catalogue_ics.htm.*

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments, data, and other information using any of the methods described in the **ADDRESSES** section at the beginning of this proposed rule.

When submitting comments via regulations.gov, the regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment itself or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Otherwise, persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information ("CBI")). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section below.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery/courier, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to *regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information in a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery/courier, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, that are written in English, and that are free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery/courier two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1)

A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

1. DOE requests comments on its proposal to replace compliance certification (CC) numbers with a Manufacturer Identification Number (MIN) system. In particular, DOE requests comment on the following items:

a. The amount of time needed for manufacturers to transition to MINs.

b. Any additional costs due to the proposal to replace CC numbers with a MIN system.

c. Whether the OEM-brand relationship is confidential business information and whether a list of MINs and associated OEMs and brands should be posted on DOE's CCMS Web site. If the OEM-brand relationship is confidential business information, whether the brand-MIN combination should be published.

d. Whether the OEM-brand relationship is held in confidence by the OEM and importer, whether the OEM-brand relationship is available in public sources, whether disclosure of the information is likely to cause substantial harm to the competitive position of the OEM or importer, and the nature of that harm.

e. As DOE is proposing that a MIN may not be transferred to another entity, how much time would be required to transition a MIN on a nameplate to a new MIN in the event that an OEM was acquired by another company.

2. In this proposal, DOE proposing to define the term "independent" at 10 CFR 431.12 and 431.442 and applying these requirements to the laboratories used by manufacturers for determining the efficiency of their basic modes. As part of this proposal, DOE is revising the requirements currently located in Section 431.18, which require that testing laboratories be accredited by NIST/NVLAP laboratory, accredited by a laboratory accreditation program having a mutual recognition program with NIST/NVLAP, or a laboratory accredited by an organization classified by DOE as an accreditation body. DOE seeks comment regarding whether DOE should also require that independent labs be accredited and what accreditations such laboratories should have.

3. DOE anticipates that manufacturers using certification programs will have their certification programs act as third-party representatives; however, DOE seeks comment regarding whether DOE should accept certification reports directly from manufacturers that use certification programs to fulfill the certification testing requirements.

4. DOE requests comment as to whether DOE should require the certification report to include a certificate of conformity or whether DOE should only require the certification report to identify the certification program used (with a certificate of conformity available from the certification program upon request by DOE).

5. DOE requests comment on its proposal for electric motors manufacturers to test and certify compliance with energy conservation standards by either: (i) Testing the electric motor using a recognized testing program (under § 429.74 of the proposal); (ii) testing the electric motor at a testing laboratory other than a recognized testing program and then have a certification program that is nationally recognized in the United States (under § 429.73 of the proposal) certify the efficiency of the electric motor; or (iii) using an alternative efficiency determination method ("AEDM," discussed in section III.E.) and then have a third-party certification program that is nationally recognized in the United States (under § 429.73 of the proposal) certify the efficiency of the electric motor.

6. As discussed in section III.C.2, DOE is proposing to make explicit that a certification program must conduct ongoing verification testing. DOE requests comment regarding whether DOE should more require specific sampling provisions for use in verification testing by certification programs, and, if so, what those sampling requirements should be.

7. DOE requests comment on its proposal to retain a minimum sample size of 5 units for basic models rated by testing at an independent laboratory unless fewer than five individual units of a basic model are manufactured over a period of 180 days.

8. DOE requests comment on its proposal to retain the requirement that at least five units of each basic model must be tested to validate an AEDM.

9. DOE requests comment on its proposal to adopt a sampling plan for electric motors similar to those used for other consumer products and commercial equipment. Additionally, DOE requests comment on its proposal to use the formulas from 10 CFR 431.17(b)(2)(i) and 10 CFR 431.17(b)(2)(ii) and add them to 10 CFR 429.138 to verify representations used for labeling.

10. DOE requests comment on its proposal to make the general certification report requirements at 10 CFR 429.12(b) applicable to electric motors and require additional specific reporting requirements including detailed in Section III.C.3 of this proposed rule.

11. DOE requests comment on its proposal that small electric motor manufacturers follow the same efficiency testing and certification procedures as electric motors manufacturers. Unlike with electric motors (*see* 42 U.S.C. 6316(c)), the statute does not require manufacturers of small electric motors to certify that a motor meets the applicable standard through an independent testing or certification program nationally recognized in the United States. Therefore, DOE requests stakeholders suggest other frameworks for certification testing of small electric motors if the stakeholder opposes DOE's proposal for consistency.

12. DOE requests comment on the sampling provisions proposed for small electric motors discussed in detail in section III.D.2.

13. DOE requests comment on its proposal requiring specific reporting requirements for small electric motors detailed in section III.D.3.

14. DOE proposes to add periodic verification testing as a criteria to be a nationally recognized certification program. DOE requests comment regarding whether, in light of the changes to the petition criteria, the currently recognized certification programs should renew their petitions and DOE should conduct a new review once this rulemaking is finalized.

15. DOE requests comment regarding whether model number, basic model number, or some other type of design information should be required on the nameplate to permit DOE and customers to tie a certification of compliance to a particular unit being distributed in commerce.

16. DOE requests comment on time required to transition to new nameplate requirements. Specifically, whether manufacturers could make the proposed changes within six month of publication of a final rule or whether the nameplate changes should be required on all electric motors manufactured on or after June 1, 2016, when compliance with amended standards is required.

17. DOE requests comment regarding whether small electric motors currently, always, bear a "nameplate" or whether other forms of labeling should be permitted. DOE also requests comment regarding whether DOE should require some sort of model, basic model, or other design-specific information to be displayed on the nameplate.

18. DOE requests comments regarding whether the formula currently in 10 CFR 431.445 should be retained for evaluation of representations.

19. DOE proposes that only the lowest efficiency (when tested and rated for multiple voltages) be placed on the nameplate of an electric motor.

a. DOE requests comment on whether there should be some indication of which rated voltage is the lower efficiency voltage corresponding to the rated efficiency.

b. As certification reports will indicate the corresponding voltage, DOE is accepting comment on whether the additional information would provide sufficient benefit to purchasers to warrant the additional cost.

c. DOE requests comment regarding whether, for each rated voltage, the manufacturer should also put a corresponding efficiency on the nameplate and the associated costs of such a requirement.

d. DOE also requests comment on whether small electric motors will include multiple rated voltages on its nameplate and if DOE should adopt similar provisions for small electric motors.

20. DOE requests comment on the change in validation testing requirements for small electric motors described in section III.D.

21. DOE seeks comment on the impacts of the any additional cost of testing on small manufacturers imposed by this proposal. DOE also seeks comment on its reasoning specified in section IV.B that the proposed changes would not have a significant impact on a substantial number of small entities.

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this notice of proposed rulemaking.

List of Subjects

10 CFR Part 429

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements, Test procedures.

10 CFR Part 431

Administrative practice and procedure, Confidential business information, Energy conservation, Incorporation by reference, Reporting and recordkeeping requirements, Test procedures.

Issued in Washington, DC, on June 10, 2016.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, DOE is proposing to amend parts 429 and 431 of chapter II of title 10 of the Code of Federal Regulations to read as follows:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 1. The authority citation for part 429 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

■ 2. Revise § 429.1 to read as follows:

§ 429.1 Purpose and scope.

This part sets forth the procedures to be followed for certification and enforcement of compliance of covered products and equipment with the applicable conservation standards set forth in 10 CFR parts 430 and 431 of this subchapter.

■ 3. Amend § 429.2 by revising paragraph (a) to read as follows:

§ 429.2 Definitions.

(a) The definitions found in 10 CFR parts 430 and 431 of this subchapter apply for purposes of this part.

* * * * *

■ 4. Amend § 429.4 by revising paragraph (d)(1) and adding paragraphs (d)(2) through (4) to read as follows:

§ 429.4 Materials incorporated by reference.

* * * * *

(d) * * *

(1) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ("ISO/IEC") Guide 17025:2005(E)", "General requirements for the competence of calibration and testing laboratories," Second edition, May 15, 2005. IBR approved for §§ 429.73, 429.74, and 429.110.

(2) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ("ISO/IEC") Guide 27, "Guidelines for corrective action to be taken by a certification body in the event of misuse of its mark of conformity", First edition, March 1, 1983, IBR approved for § 429.73.

(3) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ("ISO/IEC") Guide 17026:2015, "Conformity assessment—Example of a certification scheme for tangible products," First edition, February 1, 2015, IBR approved for § 429.73.

(4) International Organization for Standardization (ISO)/International Electrotechnical Commission (IEC), ("ISO/IEC ") Guide 17065:2012, "Conformity assessment—Requirements for bodies certifying products, processes and services," First edition, September 15, 2012, IBR approved for § 429.73.

■ 5. Revise § 429.11 to read as follows:

§ 429.11 General requirements applicable to certification reports.

(a) When testing of covered products or covered equipment is required to comply with section 323(c) of the Act, or to comply with rules prescribed under sections 324, 325, 342, 344, 345 or 346 of the Act, a sample comprised of production units (or units representative of production units) of the basic model being tested must be selected at random and tested, and must meet the criteria found in §§ 429.14 through 429.64. Any represented values of measures of energy efficiency, water efficiency, energy consumption, or water consumption for all individual models represented by a given basic model must be the same; and

(b) The minimum number of units tested must be no less than two, unless otherwise specified. A different minimum number of units may be specified for certain products in §§ 429.14 through 429.64. If fewer than the number of units required for testing is manufactured, each unit must be tested.

■ 6. Amend § 429.12 by revising paragraphs (b)(6), (b)(13), and (d) to read as follows:

§ 429.12 General requirements applicable to certification reports.

* * * * *

(b) * * *

(6) For each brand, the basic model number and the manufacturer's individual model number(s) in that basic model with the following exceptions: For external power supplies that are certified based on design families, the design family model number and the individual manufacturer's model numbers covered by that design family must be submitted for each brand. For walk-in coolers, electric motors, and small electric motors, the basic model number for each brand must be submitted. For distribution transformers, the basic model number or kVA grouping model number (depending on the certification method) for each brand must be submitted. For commercial HVAC, WH, and refrigeration equipment, an individual manufacturer model number may be identified as a "private model number" if it meets the requirements of § 429.7(b).

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(13) Product specific information listed in §§ 429.14 through 429.64 of this chapter.

* * * * *

(d) *Annual filing.* All data required by paragraphs (a) through (c) must be submitted to DOE annually, on or before the following dates:

Product category	Deadline for data submission
Fluorescent lamp ballasts, Medium base compact fluorescent lamps, Incandescent reflector lamps, General service fluorescent lamps, General service incandescent lamps, Intermediate base incandescent lamps, Candelabra base incandescent lamps, Residential ceiling fans, Residential ceiling fan light kits, Residential showerheads, Residential faucets, Residential water closets, and Residential urinals.	Mar. 1.
Small electric motors	April 1.
Residential water heater, Residential furnaces, Residential boilers, Residential pool heaters, Commercial water heaters, Commercial hot water supply boilers, Commercial unfired hot water storage tanks, Commercial packaged boilers, Commercial warm air furnaces, Commercial unit heaters and Residential furnace fans.	May 1.
Residential dishwashers, Commercial prerinse spray valves, Illuminated exit signs, Traffic signal modules, Pedestrian modules, and Distribution transformers.	June 1.
Room air conditioners, Residential central air conditioners, Residential central heat pumps, Small duct high velocity system, Space constrained products, Commercial package air-conditioning and heating equipment, Packaged terminal air conditioners, Packaged terminal heat pumps, and Single package vertical units.	July 1.
Residential refrigerators, Residential refrigerators-freezers, Residential freezers, Commercial refrigerator, freezer, and refrigerator-freezer, Automatic commercial automatic ice makers, Refrigerated bottled or canned beverage vending machine, Walk-in coolers, and Walk-in freezers.	Aug. 1.
Torchieres, Residential dehumidifiers, Metal halide lamp fixtures, and External power supplies	Sept. 1.
Residential clothes washers, Residential clothes dryers, Residential direct heating equipment, Residential cooking products, and Commercial clothes washers.	Oct. 1.
Electric motors	Nov. 1.

* * * * *

■ 7. Add § 429.63 to read as follows:

§ 429.63 Electric motors.

(a) *Compliance certification.* A manufacturer may not certify the compliance of an electric motor pursuant to 10 CFR 429.12 unless:

(1) Testing of the electric motor basic model was conducted using a recognized testing program (see § 429.74); or

(2) A third party certification program that is nationally recognized in the United States under § 429.73 has certified the efficiency of the electric motor basic model through issuance of a certificate of conformity for the basic model; or

(3) The efficiency of the electric motor basic model was determined through the application of an AEDM pursuant to the requirements of § 429.70 and a third party certification program that is nationally recognized in the United States under § 429.73 has certified the efficiency of the electric motor basic model through issuance of a certificate of conformity for the basic model.

(4) Under paragraphs (a)(2) and (3) of this section, the manufacturer and the third-party certification program must certify the compliance of the electric motor pursuant to § 429.12.

(b) *Determination of represented value.* Manufacturers must determine the represented value of efficiency, which includes the certified rating, for each basic model of electric motor either by testing, in conjunction with the applicable sampling provisions, or by applying an AEDM.

(1) *Units to be tested.* The requirements of § 429.11 apply except that, for electric motors, a sample of sufficient size is a minimum of five units.

(i) For each basic model, a sample of sufficient size must be randomly selected and tested to ensure that any represented value of full-load efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values shall be less than or equal to the lower of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the i^{th} sample; Or,

(B) The lower 97.5 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.975}$ is the t statistic for a 97.5% one-tailed confidence interval with n–1 degrees of freedom (from appendix A to subpart B of part 429).

(ii) Prior to June 1, 2017, a manufacturer may evaluate compliance for electric motors as follows. (A manufacturer must indicate the use of this provision when certifying compliance.)

(A) The average full-load efficiency shall satisfy the condition:

$$\bar{x} \geq \frac{100}{1 + 1.05 \times \left(\frac{100}{RE} - 1\right)}$$

where "RE" is the rated nominal full-load efficiency for the basic model and $\bar{x}$ equals:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

Where x_i is the measured full-load efficiency of unit i and n is the number of units tested.

(B) The lowest full-load efficiency in the sample x_{min}, which is defined by

$x_{min} = \min(x_i)$

shall satisfy the condition:

$$x_{min} \geq \frac{100}{1 + 1.15\left(\frac{100}{RE} - 1\right)}$$

Where RE is the rated nominal full-load efficiency.

(2) *Alternative efficiency determination methods.* In lieu of testing, a represented value of efficiency and of total losses for a basic model of electric motor must be determined through the application of an AEDM pursuant to the requirements of § 429.70 and the provisions of this section, where:

(i) The represented value of energy efficiency of any basic model used to validate an AEDM must be calculated under paragraph (b)(1) of this section; and

(ii) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values must be less than or equal to the output of the AEDM and greater than or equal to the Federal standard for that basic model.

(c) *Certification reports.* (1) The requirements of § 429.12 apply to electric motors;

(2) Pursuant to § 429.12(b)(13), a certification report must include the following public, product-specific information for each basic model:

(i) The electric motor category described at 10 CFR 431.25 (*e.g.,* fire pump electric motor);

(ii) The horsepower at which the basic model was tested;

(iii) The number of poles;

(iv) The enclosure type (*i.e.,* open or enclosed);

(v) The rated voltage;

(vi) The operating frequency;

(vii) Whether the basic model is subject to specific test procedure provisions listed in section 4 of appendix B to subpart B of part 431 and the type of motor and the motor category of such basic model;

(viii) The represented full-load efficiency;

(ix) The represented total losses;

(x) The sampling methodology used per § 429.63(c);

(xi) The manufacturer identification number (MIN) applied to the basic model (see 10 CFR 431.17); and

(xii) Whether the represented values are based on testing conducted in an independent testing laboratory or by a nationally recognized certification program and the name of the nationally recognized testing or certification program.

■ 8. Add § 429.64 to read as follows:

§ 429.64 Small electric motors.

(a) *Compliance certification.* A manufacturer may not certify the compliance of a small electric motor pursuant to § 429.12 unless:

(1) Testing of the small electric motor basic model was conducted using a recognized testing program (see § 429.74); or

(2) A third-party certification program that is nationally recognized in the United States under § 429.73 has certified the efficiency of the small electric motor basic model through issuance of a certificate of conformity for the basic model; or

(3) The efficiency of the small electric motor basic model was determined through the application of an AEDM pursuant to the requirements of § 429.70 and a third-party certification program that is nationally recognized in the United States under § 429.73 has certified the efficiency of the small electric motor basic model through issuance of a certificate of conformity for the basic model.

(4) Under paragraphs (a)(2) and (3) of this section, the manufacturer and the third-party certification program must certify the compliance of the small electric motor pursuant to § 429.12.

(b) *Determination of represented value.* Manufacturers must determine the represented value of efficiency, which includes the certified rating, for each basic model of small electric motor either by testing, in conjunction with the applicable sampling provisions, or by applying an AEDM.

(1) *Units to be tested.* The requirements of § 429.11 apply to small electric motors, except that, for small electric motors, a sample of sufficient size is a minimum of five units. For each basic model, a sample of sufficient size must be randomly selected and tested to ensure that:

(i) Any represented value of full-load efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values is less than or equal to the lower of:

(A) The mean of the sample, where:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

And, $\bar{x}$ is the sample mean; n is the number of samples; and x_i is the i^{th} sample; Or,

(B) The lower 97.5 percent confidence limit (LCL) of the true mean divided by 0.95, where:

$$LCL = \bar{x} - t_{0.975}\left(\frac{s}{\sqrt{n}}\right)$$

And $\bar{x}$ is the sample mean; s is the sample standard deviation; n is the number of samples; and $t_{0.975}$ is the t statistic for a 97.5% one-tailed confidence interval with n-1 degrees of freedom (from appendix A to subpart B of part 429).

(2) *Alternative efficiency determination methods.* In lieu of testing, a represented value of efficiency and of total losses for a basic model of small electric motor must be determined through the application of an AEDM pursuant to the requirements of § 429.70 and the provisions of this section, where:

(i) The represented value of energy efficiency of any basic model used to validate an AEDM must be calculated under paragraph (b)(1) of this section; and

(ii) Any represented value of energy efficiency or other measure of energy consumption of a basic model for which consumers would favor higher values must be less than or equal to the output of the AEDM and greater than or equal to the Federal standard for that basic model.

(c) *Certification reports.* (1) The requirements of § 429.12 apply to small electric motors; (2) Pursuant to § 429.12(b)(13), a certification report must include the following public product-specific information for each basic model:

(i) The small electric motor category described at 10 CFR 431.446(a) (*e.g.,* capacitor-start induction-run);

(ii) The horsepower on which the rating for the basic model is based;

(iii) The number of poles;

(iv) The represented average full-load efficiency;

(v) The represented total losses;

(vi) The manufacturer identification number (MIN) applied to the basic model (see 10 CFR 431.17);

(vii) Whether the represented values are based on testing in an independent testing laboratory or nationally recognized certification program; and

(viii) The name of the nationally recognized testing or certification program.

■ 9. Amend § 429.70 by revising paragraph (a) and by adding paragraphs (h) and (i) to read as follows:

§ 429.70 Alternative methods for determining energy efficiency or energy use.

(a) *General.* A manufacturer of covered products or covered equipment explicitly authorized to use an AEDM in §§ 429.14 through 429.64 may not distribute any basic model of such product or equipment in commerce unless the manufacturer has determined the energy efficiency of the basic model, either by testing the basic model in conjunction with DOE's certification sampling plans and statistics or by applying an alternative method for determining energy efficiency or energy use (*i.e.* AEDM) to the basic model in accordance with the requirements of this section. In instances where a manufacturer has tested a basic model to validate the AEDM, the represented value of energy efficiency of that basic model must be determined and certified according to results from actual testing in conjunction with this part 429, subpart B certification sampling plans and statistics. In addition, a manufacturer may not knowingly use an AEDM to overrate the efficiency of a basic model.

* * * * *

(h) *Alternative efficiency determination method (AEDM) for electric motors*—(1) *Criteria an AEDM must satisfy.* A manufacturer is not permitted to apply an AEDM to a basic model of electric motor to determine its efficiency pursuant to this section unless:

(i) The AEDM is derived from a mathematical model that estimates the energy efficiency characteristics and losses of the basic model as measured by the applicable DOE test procedure and accurately represents the mechanical and electrical characteristics of that basic model, and

(ii) The AEDM is based on engineering or statistical analysis, computer simulation or modeling, or any other analytical evaluation of actual performance data.

(iii) The manufacturer has validated the AEDM, in accordance with paragraph (h)(2) of this section with basic models that meet the current Federal energy conservation standards.

(2) *Validation of an AEDM.* Before using an AEDM, the manufacturer must validate the AEDM's accuracy and reliability as follows:

(i) Apply the AEDM to at least five basic models that have been selected for testing in accordance with paragraph (h)(3) of this section, and calculate the predicted average full-load efficiency and predicted total power losses for each of these basic models;

(ii) Test at least five units of each of these basic models in accordance with 10 CFR 431.16, and use the measured full-load efficiency of the tested units to determine the average full-load efficiency for each of these basic models in accordance with § 429.63 (Basic models used for validation must be certified pursuant to the provisions of § 429.63(a)(2).); and

(iii) The predicted average full-load efficiency for each such basic model calculated by applying the AEDM pursuant to paragraph (h)(2)(i) of this section must not be more than five percent greater than the measured average full-load efficiency determined from the testing of that basic model pursuant to paragraph (h)(2)(ii) of this section; and

(iv) A manufacturer may not use a basic model with a sample size of fewer than five units to validate an AEDM.

(3) *Selection of basic models for testing.* (i) A manufacturer must select basic models for testing in accordance with the following criteria:

(A) Two of the basic models must be among the five basic models with the highest unit volumes of production by the manufacturer in the prior year. In identifying these five basic models, any basic model of electric motor that does not comply with § 431.25 shall be excluded from consideration.

(B) No two basic models may have the same horsepower rating;

(C) No two basic models may have the same frame number series; and

(D) Each basic model must have the lowest average full-load efficiency among the basic models within the same equipment class.

(ii) In any instance where it is impossible for a manufacturer to select basic models for testing in accordance with all of these criteria, the criteria shall be given priority in the order in which they are listed. Within the limits imposed by the criteria, select basic models randomly.

(4) *Verification of an AEDM.* (i) Each manufacturer that has used an AEDM under this section must have available for inspection by the Department of Energy records showing:

(A) The method or methods used to develop the AEDM;

(B) The mathematical model, the engineering or statistical analysis, computer simulation or modeling, and any other analytical evaluation of performance data on which the AEDM is based;

(C) Complete test data, product information, and related information that the manufacturer has generated or acquired pursuant to paragraphs (h)(2) and (h)(4)(ii) of this section; and

(D) The calculations used to determine the average full-load efficiency of each basic model to which the AEDM was applied.

(ii) If requested by the Department, the manufacturer must:

(A) Conduct simulations to predict the performance of particular basic models of electric motors specified by the Department;

(B) Provide analyses of previous simulations conducted by the manufacturer; and/or

(C) Conduct testing of basic models selected by the Department.

(i) *Alternative efficiency determination method (AEDM) for small electric motors.* (1) *Criteria an AEDM must satisfy.* A manufacturer is not permitted to apply an AEDM to a basic model of small electric motor to determine its efficiency pursuant to this section unless:

(i) The AEDM is derived from a mathematical model that estimates the energy efficiency characteristics and losses of the basic model as measured by the applicable DOE test procedure and represents the mechanical and electrical characteristics of that basic model, and

(ii) The AEDM is based on engineering or statistical analysis, computer simulation or modeling, or other analytic evaluation of actual performance data.

(iii) The manufacturer has validated the AEDM, in accordance with paragraph (h)(2) of this section with basic models that meet the current Federal energy conservation standards.

(2) *Validation of an AEDM.* Before using an AEDM, the manufacturer must validate the AEDM's accuracy and reliability as follows:

(i) A manufacturer must first apply the AEDM to at least five basic models that have been selected for testing in accordance with paragraph (i)(3) of this section, and calculate the predicted average full-load efficiency for each of these basic models;

(ii) Test at least five units of each of these basic models in accordance with 10 CFR 431.444 and use the measured full-load efficiency of the tested units to determine the measured average full-load efficiency in accordance with § 429.64. (Basic models used for validation must be certified pursuant to the provisions of § 429.64(a)(2).); and

(iii) The predicted average full-load efficiency for each such basic model calculated by applying the AEDM pursuant to paragraph (i)(2)(i) of this section must not be more than five percent greater than the measured average full-load efficiency determined from the testing of that basic model pursuant to paragraph (i)(2)(ii) of this section; and

(iv) A manufacturer may not use a basic model with a sample size of fewer than five units to validate an AEDM.

(3) *Selection of basic models for testing.* (i) A manufacturer must select basic models for testing in accordance with the following criteria:

(A) Two of the basic models must be among the five basic models with the highest unit volumes of production by the manufacturer in the prior year. In identifying these five basic models, any small electric motor that does not comply with § 431.446 shall be excluded from consideration.

(B) No two basic models may have the same horsepower rating;

(C) No two basic models may have the same frame number series; and

(D) Each basic model must have the lowest average full-load efficiency among the basic models within the same equipment class.

(ii) In any instance where it is impossible for a manufacturer to select basic models for testing in accordance with all of these criteria, the criteria shall be given priority in the order in which they are listed. Within the limits imposed by the criteria, select basic models randomly.

(4) *Verification of an AEDM.* (i) Each manufacturer that has used an AEDM under this section must have available for inspection by the Department of Energy records showing:

(A) The method or methods used to develop the AEDM;

(B) The mathematical model, the engineering or statistical analysis, computer simulation or modeling, and any other analytical evaluation of performance data on which the AEDM is based;

(C) Complete test data, product information, and related information that the manufacturer has generated or acquired pursuant to paragraphs (i)(2) and (i)(4)(ii) of this section; and

(D) The calculations used to determine the average full-load efficiency of each basic model to which the AEDM was applied.

(ii) If requested by the Department, the manufacturer must:

(A) Conduct simulations to predict the performance of particular basic models of small electric motors specified by the Department;

(B) Provide analyses of previous simulations conducted by the manufacturer; and/or

(C) Conduct testing of basic models selected by the Department.

■ 10. Add § 429.73 to subpart B to read as follows:

§ 429.73 Department of Energy recognition of nationally recognized certification programs for electric motors and small electric motors.

(a) *Purpose.* This section sets forth the process by which a certification program may be classified by the Department of Energy as being nationally recognized in the United States for the purposes of certifying that basic models of electric motors or small electric motors meet applicable energy conservation standards.

(b) *Petition.* For a certification program to be classified by the Department of Energy as being nationally recognized, the organization operating the program must submit a petition to the Department requesting such classification, in accordance with paragraph (d) of this section and § 429.75. The petition must demonstrate that the program meets the criteria in paragraph (c) of this section.

(c) *Evaluation criteria.* (1) General. For a certification program to be classified by the Department as nationally recognized, it must meet the following criteria:

(i) It must have standards and procedures for conducting and administering a certification system that, at a minimum, are consistent with the certification requirements of this part. Such standards and procedures must also include periodic follow-up activities to ensure that basic models of electric motors and small electric motors continue to conform to the efficiency levels for which they were certified and granted a certificate of conformity. Periodic follow-up activities must include: Periodic verification testing, including sampling provisions; selection criteria; a process for determining compliance with standards; and a process for reporting models that perform worse than the applicable standard to DOE; and

(ii) It must be independent of any electric motor or small electric motor manufacturer for which it is providing certification as defined at 10 CFR 431.12 for electric motors and 10 CFR 431.442 for small electric motors.

(2) Electric motors. The certification program must be expert in the content and application of the test procedures and methodologies at 10 CFR 431.16 and 10 CFR 429.63.

(3) Small electric motors. The certification program must be expert in the content and application of the test procedures and methodologies at 10 CFR 431.444 and 10 CFR 429.64.

(d) *Petition format.* Each petition requesting classification as a nationally recognized certification program must contain a narrative statement as to why the program meets the criteria listed in paragraph (c) of this section, must be signed on behalf of the organization operating the program by an authorized representative, and must be accompanied by documentation that supports the narrative statement. The following provides additional requirements as to the specific criteria:

(1) *Standards and procedures.* The petitioning organization must include a copy of the standards and procedures it uses for operating its certification system and for granting a certificate of conformity, including any accreditations that the petitioning organization holds. These documents must include a program manual or handbook that describes how the program conducts periodic verification testing, including, but not limited to, information such as the percentage of basic models tested annually, the process for selecting basic models for verification testing, the process for selecting or obtaining units for testing, any controls to ensure that tested units are production units or are representative of production units, etc.

(2) *Independent status.* The petitioning organization must describe how it is independent (as defined at 10 CFR 431.12 for electric motors and 10 CFR 431.442 for small electric motors) from electric motor or small electric motor manufacturers, importers, distributors, private labelers, vendors, and trade associations.

(3) *Qualifications to operate a certification system.* The petitioning organization must describe its experience in operating a certification system. The experience should be discussed in detail and substantiated by supporting documents. Of particular relevance would be documentary evidence that establishes experience in running a certification program, such as the application of guidelines contained in the ISO/IEC Guide 17065:2012 (incorporated by reference, see § 429.4), ISO/IEC Guide 27 (incorporated by reference, see § 429.4), and ISO/IEC Guide 17026:2015, (incorporated by reference, see § 429.4), as well as experience in overseeing compliance with the guidelines contained in ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4).

(4) *Expertise in test procedures*—(i) *General.* This part of the petition should include items such as, but not limited to, a description of prior projects and qualifications of staff members. Of particular relevance would be documentary evidence that establishes experience in laboratory calibration procedures such as those guidelines contained in ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4), and with energy efficiency testing of the equipment to be certified.

(ii) *Electric motors.* The petition should set forth the program's experience with the test procedures and methodologies detailed in 10 CFR 431.16 and § 429.63.

(iii) *Small electric motors.* The petition should set forth the program's experience with the test procedures and methodologies detailed in 10 CFR 431.444 and § 429.64.

(5) *Laboratory requirements.* The petition must include documentary evidence that establishes experience in applying and maintaining laboratory calibration procedures, such as those contained in ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4), to energy efficiency testing of the equipment to be certified.

(e) *Disposition.* The Department will evaluate the petition in accordance with § 429.75, and will determine whether the applicant meets the criteria in paragraphs (c) and (d) of this section for classification as a nationally recognized certification program.

■ 11. Add § 429.74 to subpart B to read as follows:

§ 429.74 Department of Energy recognition of independent testing programs for electric motors and small electric motors.

(a) *Purpose.* This section sets forth the process by which a testing program may be classified by the Department of Energy as being nationally recognized in the United States for the purposes of certifying that basic models of electric motors or small electric motors meet applicable energy conservation standards.

(b) *Petition.* For a testing program to be classified by the Department of Energy as being nationally recognized, the organization operating the program must submit a petition to the Department requesting such classification, in accordance with § 429.75. A petition for recognition of an independent testing program must include the information specified in paragraph (d) of this section. The petition must demonstrate that the program meets the criteria in paragraph (c) of this section.

(c) *Evaluation criteria for independent testing programs.* (1) *General.* For a testing program to be classified by the Department as nationally recognized, it must meet the following criteria:

(i) It must have standards and procedures for conducting and administering an accreditation system that, at a minimum, ensures compliance with the testing requirements of this part and part 431. Such standards and procedures must also include periodic follow-up activities to ensure that the testing facilities continue to generate test results that are reliable and reproducible. Periodic follow-up activities must include: verification that testing is conducted in accordance with DOE regulatory requirements, including sampling provisions; assurance that independence is maintained; and that appropriate laboratory procedures are followed, including lab accreditation to ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4) and to the DOE test method.

(ii) It must be independent of any electric motor or small electric motor manufacturer as defined at 10 CFR 431.12 for electric motors and 10 CFR 431.442 for small electric motors.

(iii) It must demonstrate the ability to accredit testing facilities as meeting the following additional criteria: test facilities must be independent of electric motor or small electric motor manufacturers, importers, distributors, private labelers, vendors, and trade associations; test facilities must have the expertise necessary to conduct testing in accordance with the DOE test procedure, test facilities must have appropriate equipment, and recordkeeping and calibration procedures.

(2) *Electric motors.* The testing program must be expert in the content and application of the test procedures and methodologies at 10 CFR 431.16 and 10 CFR 429.63.

(3) *Small electric motors.* The testing program must be expert in the content and application of the test procedures and methodologies at 10 CFR 431.444 and 10 CFR 429.64.

(d) *Petition format.* Each petition requesting classification as a nationally recognized testing program must contain a narrative statement as to why the program meets the criteria listed in paragraph (c) of this section, must be signed on behalf of the organization operating the program by an authorized representative, and must be accompanied by documentation that supports the narrative statement. The following provides additional requirements as to the specific criteria:

(1) *Standards and procedures.* The petitioning organization must include a copy of the standards and procedures it uses for operating its accreditation system and for granting a testing facility accreditation, including any accreditations that the petitioning organization holds. These documents must include a program manual or handbook that describes how the program conducts periodic assessments to ensure the testing facility continues to meet the required criteria, including, but not limited to, the number of motors tested annually to ensure repeatable results, the process for verifying the labs methods for selecting or obtaining units for testing, any controls to ensure that tested units are production units or are representative of production units, etc.

(2) *Independent status.* The petitioning organization must describe how it is independent (as defined at 10 CFR 431.12 for electric motors and 10 CFR 431.442 for small electric motors) from electric motor or small electric motor manufacturers, importers, distributors, private labelers, vendors, and trade associations and the methods it uses to ensure that testing facilities recognized are also independent.

(3) *Qualifications to operate a testing program.* The petitioning organization must describe its experience in operating an accreditation system for testing facilities. The experience should be discussed in detail and substantiated by supporting documents. Of particular relevance would be documentary evidence that establishes experience in running an accreditation program, such as the application of guidelines contained in the ISO/IEC Guide 17065:2012 (incorporated by reference, see § 429.4), ISO/IEC Guide 27 (incorporated by reference, see § 429.4), and ISO/IEC Guide 17026:2015, (incorporated by reference, see § 429.4), as well as experience in overseeing compliance with the guidelines contained in ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4).

(4) *Expertise in test procedures*—(i) *General.* This part of the petition should include items such as, but not limited to, a description of prior projects and qualifications of staff members. Of particular relevance would be documentary evidence that establishes experience in laboratory calibration procedures such as those guidelines contained in the ISO/IEC Guide 17025: 2005(E) (incorporated by reference, see § 429.4), and with energy efficiency testing of the equipment to be certified. The petitioning organization is

responsible for having expertise so as to be qualified to assess the expertise of recognized testing facilities.

(ii) *Electric motors.* The petition should set forth the program's experience with the test procedures and methodologies in 10 CFR 431.16 and § 429.63.

(iii) *Small electric motors.* The petition should set forth the program's experience with the test procedures and methodologies 10 CFR 431.444 and § 429.64.

(5) *Laboratory requirements.* The petition must include documentary evidence that establishes experience in applying and maintaining laboratory calibration procedures, such as those contained in ISO/IEC Guide 17025:2005(E) (incorporated by reference, see § 429.4) to energy efficiency testing of the equipment to be certified.

(e) *Disposition.* The Department will evaluate the petition in accordance with § 429.75, and will determine whether the applicant meets the criteria in paragraphs (c) and (d) of this section for classification as a nationally recognized certification program.

■ 12. Add § 429.75 to subpart B to read as follows:

§ 429.75 Procedures for recognition and withdrawal of recognition of independent testing or certification programs.

(a) *Filing of petition.* Any petition submitted to the Department pursuant to § 429.73(a) or § 429.74(a), shall be entitled "Petition for Recognition" ("Petition") and must be submitted to the Assistant Secretary for Energy Efficiency and Renewable Energy, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0121, or via email to [email address TBD]. In accordance with the provisions set forth in 10 CFR 1004.11, any request for confidential treatment of any information contained in such a Petition or in supporting documentation must be accompanied by a copy of the Petition or supporting documentation from which the information claimed to be confidential has been deleted.

(b) *Public notice and solicitation of comments.* DOE shall publish in the **Federal Register** the petition from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11 and shall solicit comments, data and information on whether the Petition should be granted. The Department shall also make available for inspection and copying the Petition's supporting documentation from which confidential information, as determined by DOE, has been deleted in accordance with 10 CFR 1004.11. Any person submitting written comments to DOE with respect to a petition shall also send a copy of such comments to the petitioner.

(c) *Responsive statement by the petitioner.* A petitioner may, within 10 business days of receipt from DOE of a copy of any comments submitted in accordance with paragraph (b) of this section, respond to such comments in a written statement submitted to the Assistant Secretary for Energy Efficiency and Renewable Energy. A petitioner may address more than one set of comments in a single responsive statement.

(d) *Optional second round of public comment.* If, after reviewing comments on the Petition and the petitioner's response, DOE determines that a second round of comments is necessary to resolve conflicting information or gather additional information crucial to DOE's decision, DOE may solicit through a **Federal Register** notice additional comments, data and information on whether the Petition should be granted.

(e) *Public announcement of final determination.* The Assistant Secretary for Energy Efficiency and Renewable Energy shall, as soon as practicable, publish in the **Federal Register** a notice of final determination on the petition.

(f) *Additional information.* DOE may, at any time during the recognition process, request additional relevant information or conduct an investigation concerning the petition. DOE's determination on a petition may be based solely on the petition and supporting documents, or may also be based on such additional information as DOE deems appropriate.

(g) *Withdrawal of recognition*—(1) *Withdrawal by the Department.* If DOE believes that a program that has been recognized under §§ 429.73 or 429.74 is failing to meet the criteria of paragraphs (c) and (d) of that section, DOE may initiate withdrawal of recognition as follows:

(i) DOE will provide a written notification to the affected program citing the basis or bases for its belief that corrective action is warranted. The notification will indicate the time period within which the program must complete such corrective actions and report the status of completion to DOE. In no case shall the time allowed for corrective action exceed 180 days from the date of the notice (inclusive of the 30 days allowed under paragraph (g)(1)(ii) of this section for disputing the bases for DOE's notification of withdrawal).

(ii) If the program wishes to dispute any bases identified in the notification, the program must respond to DOE within 30 days of receipt of the notification.

(iii) If, after the time period for corrective action has expired, DOE believes that the applicable criteria that were identified in the notification under paragraph (i) have not been met, DOE will withdraw its recognition from that program and provide a formal written notification to the program of such action. DOE shall identify the effective date of withdrawal in the notice required by paragraph (g)(3) of this section, which in no case shall be more than 30 days following the publication date of the notice.

(iv) In order to exhaust administrative remedies, any person aggrieved by an action under this section must file an appeal with the DOE's Office of Hearings and Appeals as provided in 10 CFR part 1003, subpart C, within 30 days of receipt of the notice of DOE's withdrawal of recognition.

(2) *Voluntary withdrawal.* A program may, under 10 CFR 429.75, unilaterally withdraw its recognition by advising DOE in writing of such withdrawal. It must also advise manufacturers utilizing the certification program of such withdrawal. Any notice provided to DOE or to manufacturers pursuant to this paragraph must identify the date on which the withdrawal is effective, the equipment types covered by the program to be withdrawn, and any effect the withdrawal has on the validity of certifications, recognition, or accreditation previously issued by the program. In no case shall such notification occur less than 30 days prior to the effective date of withdrawal.

(3) *Notice of withdrawal of recognition.* DOE will publish in the **Federal Register** a notice of any withdrawal of recognition that occurs pursuant to this paragraph. Such notice will identify the effective date of withdrawal, the product or equipment types covered by the program being withdrawn, and any effect the withdrawal has on the validity of certifications or other recognition previously issued by the program.

■ 13. Add § 429.76 to subpart B to read as follows:

§ 429.76 Labeling and other representations.

(a) *General.* If a basic model is a type of covered product or equipment for which DOE requires a label, the label must be in conformance with the requirements of this section.

(b) *Electric motors*—(1) *Required information.* All units produced of any basic model of electric motor for which standards are prescribed in § 431.25 of this chapter must bear a permanent nameplate that is marked clearly with the following information:

(i) The electric motor's represented full-load efficiency as certified pursuant to § 429.63. If a motor is rated at multiple voltages, then only display the lowest represented full-load efficiency as certified pursuant to § 429.63; and

(ii) The manufacturer identification number (MIN) applicable to that unit. Such MIN must be on the nameplate of an electric motor at the time of its distribution in commerce.

(2) *Display of required information.* All orientation, spacing, type sizes, typefaces, and line widths to display this required information must be the same as or similar to the display of any other performance data on the motor's permanent nameplate. The represented full-load efficiency must be identified either by the term "Represented Full-Load Efficiency" or "Rep. Full-Load. Eff." The MIN must be in the form "MIN: __".

(3) *Disclosure of efficiency information in marketing materials.* The electric motor's represented full-load efficiency as certified pursuant to § 429.63 must be prominently displayed:

(i) On each page of a catalog that lists the motor; and

(ii) In other materials used to market the motor.

(4) *Preemption of State regulations.* The provisions of this paragraph supersede any State regulation to the extent required by section 327 of the Act (42 U.S.C. 6297), as applied to electric motors via section 345 of the Act (42 U.S.C. 6316). Pursuant to the Act, all State regulations that require the disclosure for any electric motor of information with respect to energy consumption, other than the information required to be disclosed in accordance with this paragraph, are superseded.

(c) *Small electric motors*—(1) *Required information.* All units produced of any basic model of small electric motor for which standards are prescribed in § 431.446 of this chapter must bear a permanent nameplate that is marked clearly with the following information:

(i) The small electric motor's represented average full-load efficiency as certified pursuant to § 429.64; and

(ii) The manufacturer identification number (MIN) applicable to that unit. Such MIN must be on the nameplate of a small electric motor at the time of its distribution in commerce.

(2) *Display of required information.* All orientation, spacing, type sizes, typefaces, and line widths to display this required information must be the same as or similar to the display of any other performance data on the motor's permanent nameplate. The represented average full-load efficiency must be identified either by the term "Represented Average Full-Load Efficiency" or "Rep. Avg. Full-Load. Eff." The MIN must be in the form "MIN: ____".

■ 14. Amend § 429.102 by revising the section heading and by adding paragraphs (a)(11) through (14) to read as follows:

§ 429.102 Prohibited acts.

(a) * * *

(11) Distribution in commerce by a manufacturer or private labeler of any covered equipment which is not labeled in accordance with this part;

(12) Removal from any covered equipment or rendering illegible, by a manufacturer, distributor, retailer, or private labeler, any label required to be provided under this part;

(13) Advertisement of an electric motor, by a manufacturer, distributor, retailer, or private labeler, in a catalog from which the equipment may be purchased, without including in the catalog all information as required by § 429.76(b)(3), provided, however, that this shall not apply to an advertisement of an electric motor in a catalog if distribution of the catalog began before the effective date of the labeling rule applicable to that motor; or

(14) For any manufacturer or private labeler of a small electric motor to distribute in commerce any small electric motor required by § 429.76 to be labeled that is not in conformity with the relevant energy conservation standard found at 10 CFR 431.446.

■ 15. Amend § 429.110 by revising paragraphs (c)(1)(i) and (ii), (c)(3), and (e)(6) through (8) to read as follows:

§ 429.110 Enforcement testing.

* * * * *

(c) * * *

(1) * * *

(i) *Manufacturer's warehouse, distributor, or other facility affiliated with the manufacturer.* DOE will select a batch sample at random in accordance with the provisions in paragraph (e) of this section and the conditions specified in the test notice. DOE will randomly select an initial test sample of units from the batch sample for testing in accordance with appendices A through D of this subpart. DOE will make a determination whether an alternative sample size will be used in accordance with the provisions in paragraph (e) of this section.

(ii) *Retailer or other facility not affiliated with the manufacturer.* DOE will select an initial test sample of units at random that satisfies the minimum number of units necessary for testing in accordance with the provisions in appendices A through D of this subpart and the conditions specified in the test notice. Depending on the results of the testing, DOE may select additional units for testing from a retailer in accordance with appendices A through D of this subpart. If the full sample is not available from a retailer, DOE will make a determination whether an alternative sample size will be used in accordance with the provisions in paragraph (e) of this section.

* * * * *

(3) The resulting test data shall constitute official test data for the basic model. Such test data will be used by DOE to make a determination of compliance or noncompliance if a sufficient number of tests have been conducted to satisfy the requirements of paragraph (e) of this section and appendices A through D of this subpart.

* * * * *

(e) * * *

(6) For electric motors and small electric motors, DOE will use an initial sample size of at least five units and follow the sampling plans in appendix D of this subpart (Sampling Plan for Enforcement Testing of Electric Motors and Small Electric Motors). If fewer than five units of a basic model are available for testing when the manufacturer receives the test notice, then:

(i) DOE will test the available unit(s); or

(ii) If one or more other units of the basic model are expected to become available within 30 calendar days, the Department may instead, at its discretion, test either:

(A) The available unit(s) and one or more of the other units that subsequently become available (for a total sample of at least five); or

(B) At least five of the other units that subsequently become available.

(7) Notwithstanding paragraphs (e)(1) through (e)(6) of this section, if testing of the available or subsequently available units of a basic model would be impractical, as for example when a basic model has unusual testing requirements or has limited production, DOE may in its discretion decide to base the determination of compliance on the testing of fewer than the otherwise required number of units.

(8) When DOE makes a determination in accordance with paragraph (e)(6) to test less than the number of units specified in paragraph (e)(1) through (e)(6) of this section, DOE will base the compliance determination on the results

of such testing in accordance with appendix B of this subpart (Sampling Plan for Enforcement Testing of Covered Equipment and Certain Low-Volume Covered Products) using a sample size (n_1) equal to the number of units tested.

(9) For the purposes of this section, available units are those that are available for distribution in commerce within the United States.

■ 16. Add § 429.138 to read as follows:

§ 429.138 Electric motors representations.

(a) *Purpose.* This provision is used to evaluate whether a representation is permitted for purposes of the prohibited acts related to labeling and representations.

(b) *Electric motors.* Any represented value of nominal full-load efficiency must satisfy the condition:

$$RE \leq 100\left(\frac{1.05\bar{x}}{100+0.05\bar{x}}\right)$$

Where, RE is the represented nominal full-load efficiency and the average full-load efficiency of the sample, $\bar{x}$ is defined by:

$$\bar{x} = \frac{1}{n}\sum_{i=1}^{n} x_i$$

Where x_i is the measured full-load efficiency of unit *i* and n is the number of units tested. And, the lowest measured full-load efficiency in the sample, x_{min}, which is defined by:

$\bar{X}_{min} = \min(x_i)$

must satisfy the condition

$$x_{min} \geq \frac{100}{1+1.15\left(\frac{100}{RE}-1\right)}$$

Where RE is the represented nominal full-load efficiency.

■ 17. Add appendix D to subpart C of part 429 to read as follows:

Appendix D to Subpart C of Part 429—Sampling Plan for Enforcement Testing of Electric Motors and Small Electric Motors

Step 1. The first sample size (n_1) must be five or more units.

Step 2. Compute the mean ($\bar{X}_1$) of the measured energy performance of the n_1 units in the first sample as follows:

$$\bar{X}_1 = \frac{1}{n_1}\sum_{i=1}^{n_1} X_i$$

where X_i is the measured full-load efficiency of unit i.

Step 3. Compute the sample standard deviation (S_1) of the measured energy efficiency of the n_1 units in the first sample as follows:

$$S_1 = \sqrt{\frac{\sum_{i=1}^{n_1}(X_i-\bar{X}_1)^2}{n_1-1}}$$

Step 4. Compute the standard error ($SE(\bar{X}_1)$) of the mean full-load efficiency of the first sample as follows:

$$SE(\bar{X}_1) = \frac{S_1}{\sqrt{n_1}}$$

Step 5. Compute the lower control limit (LCL_1) for the mean of the first sample using RE as the desired mean as follows:

$(LCL_1) = RE - tSE(\bar{X}_1)$

where: RE is the applicable standard full-load efficiency when the test is to determine compliance with the applicable statutory standard, or is the represented average full-load efficiency when the test is to determine compliance with the labeled efficiency value, and t is the 2.5th percentile of a t-distribution for a sample size of n_1, which yields a 97.5 percent confidence level for a one-tailed t-test.

Step 6. Compare the mean of the first sample $(\bar{X})_1)$ with the lower control limit (LCL_1) to determine one of the following:

(i) If the mean of the first sample is below the lower control limit, then the basic model is in non-compliance and testing is at an end.

(ii) If the mean is equal to or greater than the lower control limit, no final determination of compliance or non-compliance can be made; proceed to Step 7.

Step 7. Determine the recommended sample size (n) as follows:

$$n = \left[\frac{tS_1(120-0.2RE)}{RE(20-0.2RE)}\right]^2$$

where S_1, RE and t have the values used in Steps 3 and 5, respectively. The factor

$$\frac{120-0.2RE}{RE(20-0.2RE)}$$

is based on a 20 percent tolerance in the total power loss at full-load and fixed output power.

Given the value of n, determine one of the following:$\bar{X}_1$

(i) If the value of n is less than or equal to n_1 and if the mean energy efficiency of the first sample ($\bar{X}_1$) is equal to or greater than the lower control limit (LCL_1), the basic model is compliant and testing is at an end.

(ii) If the value of n is greater than n_1, the basic model is in non-compliance. The size of a second sample n_2 is determined to be the smallest integer equal to or greater than the difference $n - n_1$. If the value of n_2 so calculated is greater than $21 - n_1$, set n_2 equal to $21 - n_1$.

Step 8. Compute the combined ($\bar{X}_2$) mean of the measured energy performance of the n_1 and n_2 units of the combined first and second samples as follows:

$$\bar{X}_2 = \frac{1}{n_1+n_2}\sum_{i=1}^{n_1+n_2} X_i$$

Step 9. Compute the standard error ($SE(\bar{X}_2)$) of the mean full-load efficiency of the n_1 and n_2 units in the combined first and second samples as follows:

$$SE(\bar{X}_2) = \frac{S_1}{\sqrt{n_1+n_2}}$$

(Note that S_1 is the value obtained above in Step 3.)

Step 10. Set the lower control limit (LCL_2) to,

$(LCL_I) = RE - tSE(\bar{X}_1)$

where t has the value obtained in Step 5, and compare the combined sample mean ($\bar{X}_2$) to the lower control limit (LCL_2) to find one of the following:

(i) If the mean of the combined sample ($\bar{x}_2$) is less than the lower control limit (LCL_2), the basic model is in non-compliance and testing is at an end.

(ii) If the mean of the combined sample ($\bar{X}_2$) is equal to or greater than the lower control limit (LCL_2), the basic model is not found to be in non-compliance and testing is at an end.

PART 431—ENERGY EFFICIENCY PROGRAM FOR CERTAIN COMMERCIAL AND INDUSTRIAL EQUIPMENT

■ 18. The authority citation for part 431 continues to read as follows:

Authority: 42 U.S.C. 6291–6317.

§ 431.2 [Amended]

■ 19. Amend § 431.2 by removing the definition of "Independent laboratory".

■ 20. Revise § 431.11 to read as follows:

§ 431.11 Purpose and scope.

This subpart contains energy conservation requirements for electric motors, including test procedures, energy conservation standards, and related requirements prescribed or authorized by EPCA. This subpart does not cover "small electric motors," which are addressed in subpart X of this part.

■ 21. Amend § 431.12 by:

■ a. Removing the definitions of "Accreditation", "Accreditation body", "Accreditation system", and "Accredited laboratory";

■ b. Revising the definition of "Basic model;" and

■ c. Adding, in alphabetical order, the definitions of "Equipment class" and "Independent".

The revisions and additions read as follows:

§ 431.12 Definitions.

* * * * *

Basic model means, with respect to an electric motor, all units of a given type of electric motor (or class thereof) manufactured by a single manufacturer, and which are part of the same equipment class, have electrical characteristics that are essentially identical, and do not have any differing physical or functional characteristics that affect energy consumption or efficiency.

* * * * *

Equipment class means one of the combinations of an electric motor's horsepower (or standard kilowatt equivalent), number of poles, and open or enclosed construction, with respect to which § 431.25 prescribes nominal full-load efficiency standards.

* * * * *

Independent means, in the context of a testing laboratory or certification program, an entity that is not controlled by, or under common control with, electric motor manufacturers, importers, private labelers, or vendors, and that has no affiliation, financial ties, or contractual agreements, apparently or otherwise, with such entities that would:

(1) Hinder the ability of the laboratory or program to evaluate fully or report the measured or calculated energy efficiency of any electric motor, or

(2) Create any potential or actual conflict of interest that would undermine the validity of said evaluation.

* * * * *

§ 431.14 [Removed]

■ 22. Remove § 431.14.

■ 23. Revise § 431.16 to read as follows:

§ 431.16 Test procedures for measurement of energy efficiency.

For purposes of this part and EPCA, the test procedures for measuring the energy efficiency of an electric motor shall be the test procedures specified in appendix B to this subpart B. For each basic model of electric motor for which a manufacturer wishes to make a representation of the motor's ability to be installed and operated at multiple voltages, the electric motor must meet each of the energy conservation standards at the voltages for which the manufacturer has claimed it can be installed and operated.

■ 24. Revise § 431.17 to read as follows:

§ 431.17 Manufacturer identification numbers.

(a) For the purposes of compliance with the labeling requirements of 10 CFR 429.76, before an electric motor may be distributed in commerce, DOE must issue a manufacturer identification number (MIN) in accordance with this paragraph for display on the permanent nameplate of each unit of a basic model of electric motor for which part 431 prescribes an energy conservation standard. For purposes of this section, "original equipment manufacturer" (OEM) means the manufacturer that produces or assembles a unit; only one OEM is responsible for the manufacture (production or assembly) of a unit.

(b) *Issuance of manufacturer identification numbers.* (1) Before a certification report is submitted for a basic model, a MIN must be requested from DOE for use with each specific brand name to be listed in the certification report.

(2) DOE will provide a unique MIN for each OEM-brand name combination, subject to the following provisions:

(i) DOE will not issue a MIN for use with the same brand name if a MIN has already been issued for that combination of OEM and brand name, and

(ii) DOE will issue a MIN for use only with a single OEM-brand name combination.

(3) Once DOE has issued a MIN for a particular OEM-brand name combination, that MIN shall be the only MIN applicable to all electric motors manufactured by the OEM and labeled under that brand name.

(4) A MIN issued by DOE may not be transferred to another entity or used on the nameplates of basic models other than the OEM and brand name associated with the MIN to which DOE initially issued the MIN.

(c) *Discontinuance of manufacturer identification numbers.* In the event the brand name(s) to which a MIN is applicable ceases to be manufactured, the OEM must notify DOE of such discontinuation within 30 days of the discontinuation, after which time the MIN will terminate and be invalid for use on nameplates of electric motors manufactured after such date.

(d) *Method of submitting requests and notifications.* MIN requests required by paragraph (a) of this section or MIN discontinuance notifications required by paragraph (c) of this section must be submitted to DOE either electronically at *http://www.regulations.doe.gov/ccms* (CCMS) or via email to *MotorMINRequest@ee.doe.gov.* The applicable form for each action online is available at *http://www.regulations.doe.gov/forms.*

§§ 431.18, 431.19, 431.20, and 431.21 [Removed]

■ 25. Remove §§ 431.18, 431.19, 431.20 and 431.21.

■ 26. Section 431.25 is amended by adding paragraph (m) to read as follows:

§ 431.25 Energy conservation standards and effective dates.

* * * * *

(m) *Rated voltages.* A basic model of electric motor for which there are energy conservations standards must comply with such standards at all of the voltages for which the motor is rated by the manufacturer to be used.

§§ 431.31 and 431.32 [Removed]

■ 27. Remove §§ 431.31 and 431.32 and the undesignated center heading "Labeling" preceeding them.

■ 28. Revise § 431.35 to read as follows:

§ 431.35 Applicability of certification requirements.

Sections 429.12 and 429.63 of this chapter set forth the procedures for manufacturers to certify that electric motors comply with the applicable energy efficiency standards set forth in this subpart.

§ 431.36 [Removed]

■ 29. Remove § 431.36.

Appendix C to Subpart B of Part 431—[Removed]

■ 30. Remove appendix C to subpart B of part 431.

Subpart U—[Removed and Reserved]

■ 31. Remove and reserve subpart U, consisting of §§ 431.381 through 431.387 and appendix A to subpart U of part 431.

■ 32. Amend § 431.442 by:

■ a. Revising the definition of "Basic model"; and

■ b. Adding, in alphabetical order, definitions of "Equipment class" and "Independent."

The revisions and additions read as follows:

§ 431.442 Definitions.

* * * * *

Basic model means, with respect to a small electric motor, all units of a given type of small electric motor (or class thereof) manufactured by a single manufacturer, and which are part of the same equipment class, have electrical characteristics that are essentially identical, and do not have any differing physical or functional characteristics which affect energy consumption or efficiency.

* * * * *

Equipment class means one of the combinations of a small electric motor's type (*i.e.,* capacitor-start capacitor-run, capacitor-start induction-run, or polyphase), horsepower (or standard kilowatt equivalent), and number of poles, with respect to which § 431.446 prescribes average full-load efficiency standards.

* * * * *

Independent means, in the context of a testing laboratory or nationally recognized certification program, an entity that is not controlled by or under common control with small electric motor manufacturers, importers, private labelers, or vendors, and that has no affiliation, financial ties, or contractual agreements, apparently or otherwise, with such entities that would:

(1) Hinder the ability of the laboratory or program to evaluate fully or report the measured or calculated energy efficiency of any small electric motor, or

(2) Create any apparent or actual conflict of interest that would undermine the validity of said evaluation. For purposes of this definition, financial ties or contractual agreements between an electric motor manufacturer, importer, private labeler or vendor and a testing laboratory or certification program exclusively for testing or certification services does not negate an otherwise independent relationship.

* * * * *

§ 431.445 [Removed]

■ 33. Remove § 431.445.

■ 34. Amend § 431.446 by adding paragraph (c) to read as follows:

§ 431.446 Small electric motors energy conservation standards and their effective dates.

* * * * *

(c) A small electric motor that is installed as a component of a unit of an enumerated type of covered product under 42 U.S.C. 6302(a) or covered equipment under 42 U.S.C. 6311 at the time of distribution in commerce by the small electric motor manufacturer or private labeler is not subject to the standards specified in paragraph (a) of this section.

■ 35. Revise § 431.447 to read as follows:

§ 431.447 Manufacturer Identification Numbers.

(a) For the purposes of compliance with the labeling requirements of 10 CFR 429.76, before a small electric motor may be distributed in commerce, DOE must issue a manufacturer identification number (MIN) in accordance with this paragraph. For purposes of this section, "original equipment manufacturer" (OEM) means the manufacturer that produces or assembles the small electric motor at issue.

(b) *Issuance of manufacturer identification numbers.* (1) Before a certification report is submitted for a basic model, a MIN must be requested from DOE for use with each specific brand name to be listed in the certification report.

(2) DOE will provide a unique MIN for each OEM-brand name combination, subject to the following provisions:

(i) DOE will not issue a MIN for use with the same brand name if a MIN has already been issued for that combination of OEM and brand name, and

(ii) DOE will issue a MIN for use only with a single OEM-brand name combination.

(3) Once DOE has issued a MIN for a particular OEM-brand name combination, that MIN shall be the only MIN applicable to all small electric motors manufactured by the OEM and labeled under that brand name.

(4) A MIN issued by DOE may not be transferred to another entity or used on the nameplates of basic models other than the OEM associated with the MIN to which DOE initially issued the MIN.

(c) *Discontinuance of manufacturer identification numbers.* In the event the brand name(s) to which a MIN is applicable ceases to manufactured, the OEM must notify DOE of such discontinuation within 30 days of the discontinuation, after which time the MIN will terminate and be invalid for use on nameplates of small electric motors distributed in commerce in the United States.

(d) *Method of submitting requests and notifications.* MIN requests required by paragraph (a) of this section or MIN discontinuance notifications required by paragraph (c) of this section must be submitted to DOE either electronically at *http://www.regulations.doe.gov/ccms* (CCMS) or via email to *MotorMINRequest@ee.doe.gov.* The applicable form for each action online is available at *https://www.regulations.doe.gov/ccms/forms/.*

§ 431.448 [Removed]

■ 36. Remove § 431.448.

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